

VERBATIM <sup>1</sup>RECORD OF TRIAL <sup>2</sup>

(and accompanying papers)

of

MANNING, Bradley E.

(Name: Last, First, Middle Initial)

Headquarters and  
Headquarters Company,  
United States Army Garrison  
(Unit/Command Name)

(Social Security Number)

U.S. Army

(Branch of Service)

PFC/E-3

(Rank)

Fort Myer, VA 22211

(Station or Ship)

By

GENERAL

COURT-MARTIAL

Convened by

Commander

(Title of Convening Authority)

UNITED STATES ARMY MILITARY DISTRICT OF WASHINGTON

(Unit/Command of Convening Authority)

Tried at

Fort Meade, MD

(Place or Places of Trial)

on

see below

(Date or Dates of Trial)

## Date or Dates of Trial:

23 February 2012, 15-16 March 2012, 24-26 April 2012, 6-8 June 2012, 25 June 2012, 16-19 July 2012, 28-30 August 2012, 2 October 2012, 12 October 2012, 17-18 October 2012, 7-8 November 2012, 27 November - 2 December 2012, 5-7 December 2012, 10-11 December 2012, 8-9 January 2013, 16 January 2013, 26 February - 1 March 2013, 8 March 2013, 10 April 2013, 7-8 May 2013, 21 May 2013, 3-5 June 2013, 10-12 June 2013, 17-18 June 2013, 25-28 June 2013, 1-2 July 2013, 8-10 July 2013, 15 July 2013, 18-19 July 2013, 25-26 July 2013, 28 July - 2 August 2013, 5-9 August 2013, 12-14 August 2013, 16 August 2013, and 19-21 August 2013.

<sup>1</sup> Insert "verbatim" or "summarized" as appropriate. (This form will be used by the Army and Navy for verbatim records of trial only.)

<sup>2</sup> See inside back cover for instructions as to preparation and arrangement.

We happen to think that 3 months is a long time to languish in a brig awaiting an opportunity to confront one's accusers, and we think Congress thought so, too. Four months in the brig is even longer. We see nothing in Article 10 that suggests that speedy-trial motions could not succeed where a period under 90 – or 120 – days is involved. At the same time, we recognize that there are many circumstances that justify even longer periods of delay. However, where it is established that the Government could readily have gone to trial much sooner than some arbitrarily selected time demarcation but negligently or spitefully chose not to, we think an Article 10 motion would lie.

38 M.J. at 261. Here, the time PFC Manning has spent languishing in pretrial confinement – 845 days as of the date of this motion – is unquestionably a long time. The Government could have gone to trial much sooner than the currently scheduled 4 February 2013 trial date, if only it had understood its basic discovery obligations from the inception of this case and did not have to be corrected by this Court 698 days into the case. Therefore, an Article 10 motion lies in this case. *See id.*

314. It should also be pointed out that the Government's failure to understand basic discovery rules continued at virtually every motions argument. In one instance, MAJ Fein refused to accept that R.C.M. 701(a)(2) required him to turn over evidence that was obviously material to the preparation of the defense, even in the absence of a defense request. The following email exchange between the Court and MAJ Fein shows the Government's utter lack of understanding (or willful misreading) of basic discovery rules. Neither can be countenanced.

Court: So when you're doing reviews then, are you looking at these reviews for both 701(a)(6) and 701(a)(2)?

MAJ Fein: [pause] Ma'am for DIA information, we have been reviewing it for 701(a)(2) as well in anticipation if the Court does rule in favor based off a specific request from the Defense so we do not have to review the documents again.

Court: Okay, let's go a little bit more broadly here. When you are reviewing documents for 701(a)(2), if the Government is alerted that this could be material to the defense, the Government's got an obligation to turn this over.

MAJ Fein: The Government's ... the Government at least argues that it's not just that the documents themselves are material, it would be certain information – just like the defense is arguing or proffered to the court in their response to the *ex parte* motions of 505(g)(2). Here are the categories of information. The prosecution makes the initial determination of material to the preparation of the defense and the defense argues – provides – as they've done and then it's like "Okay, that's what we're on notice of." We're absolutely on notice that any type of damage that resulted, for instance, is material to the preparation of the defense based off of the year and a half of requests. So as each discovery request comes in, we process it, we add it to our database of what we're reviewing and we start again, churning the review of these documents. We maintain still based off

today's litigation that those documents are still not 701(a)(2), subject to the Court's order, but because we do not have a specific request. It's all documents at DIA with some caveats. Not any type, not anything directed at a certain type of information. I mean the Defense is in the best position to know exactly what was and was not compromised from their client. They could be making specific requests for what type of information they're looking for. So it's not that the Defense is in an odd position of not being aware of what could be out there and if, as the Defense just stated on the record, as if the Information Review Task Force, which it was, started to review all the possible compromised documents then they should know what was compromised. We would know from reviewing the files what's there and they can make specific requests. But it goes back to, it's a generic request that's copied and pasted from 701(a)(2) for pretty much every type of document out there.

Court: What volume of information are we talking about?

MAJ Fein: Your honor, we have probably keep going, about ... I'll get you that information before we close the Court today.

...

MAJ Fein: If the Court's willing to accept the Defense's argument, that means that any document that is in the possession, custody or control of military authorities that they simply request and make no other showing, then they are entitled to inspect. Your honor, especially dealing with classified information, it goes back to ... that this is a tactic in order to essentially slow this prosecution down, slow this court martial down, on one hand arguing that, for instance, in the upcoming *Brady* motion we've given too much information for them to identify stuff and now they want everything, just because they've made a request. We've maintained, the prosecution has maintained, from the very first request, "Provide us with the specific...provide us with an adequate basis and a specific factual basis and we'll be able to process it." All documents from DIA and IRTF is not sufficient. Yes, we have prepared because we do want to move this case and we do not want to have unneeded delay in order to do this. And I have to review thousands of pages of documents again, but again, these are classified documents and the Defense notes that. And yet they still maintain a general request just because they make the request that it must be material to the preparation of the defense with no other showing.

Court: I understand that, MAJ Fein, but when the Government is reviewing these documents, the Government has a burden, an obligation, under R.C.M. 701(a)(2) to disclose material to the preparation of the defense. So if the Government while observing, while looking through these documents, sees something that you think is material to the preparation of the defense, and you're not turning it over because they didn't ask for it, I'm going to order everything turned over to me for *in camera* review.

MAJ Fein: Yes, ma'am.

Court: So is the Government going to look at this with an eye of the defense counsel and ...

MAJ Fein: We absolutely will, ma'am. Ah - to turn over material based off of just what the Defense gives us and what they consider material to the preparation of the defense, we will review the documents for that. Cause then, that would qualify as a specific request and we would do it.

Court: We're having a circular argument here again. If you're looking at document and you say, as MAJ Fein, "Boy, if I were a defense counsel, I would find this material to the preparation of the defense" are you going to hold onto it until they request it?

MAJ Fein: No, your honor, we're not.

Audio from Article 39(a) session, 6 June 2012. This passage illustrates that, up until 6 June 2012, the Government was *still* operating under an incorrect understanding of military discovery. It almost seems unfathomable that an entire SJA shop could bungle discovery on so many different fronts.

315. As is clear, the true cause of the discovery delay in this case, notwithstanding any Government protestations to the contrary, has been the Government's inexcusable failure to understand its bedrock discovery obligations. The negligence inherent in such a failure is manifest, and the delay that has been occasioned by this negligence is severe. Accordingly, the second factor of the Article 10 procedural framework and the Sixth Amendment analysis must be resolved in PFC Manning's favor.

### **iii. Untenable Government Discovery Positions**

316. As if laboring under a chronic misunderstanding of its discovery obligations wasn't unbelievable enough, the Government has furthered undermined any confidence in its discovery abilities by putting forth numerous untenable discovery positions. These positions, some of which are chronicled briefly below, have been adopted to serve the Government's obvious desire to provide the Defense with as little discovery as possible. This tactic, in addition to being contrary to the clear liberal tenor of the discovery rules in military practice, has caused yet further periods of delay in this case.

317. The Government has taken the following meritless positions throughout discovery in this case:

- a) Maintaining that *Brady* does not require the Government to turn over documents that are relevant to punishment;
- b) Maintaining that R.C.M. 701 does not apply to classified discovery;



- c) Disputing the relevance of facially relevant items (such as damage assessments);
- d) Using the R.C.M. 703 standard, instead of the appropriate R.C.M. 701 standard when dealing with items within the military's possession, custody and control;
- e) Referring to damage assessments and other documents as "alleged" to frustrate the Defense's access to them;
- f) Maintaining that the Department of State and ONCIX had not "completed" a damage assessment;
- g) Maintaining that it was "unaware" of forensic results and investigative files;
- h) Resisting production of the Department of State damage assessment under the "authority" of *Giles v. Maryland*, 386 U.S. 66, 117 (1967) (which provided no legal support for its position);
- i) Despite understanding Defense discovery requests, defining "damage assessments" and "investigations" to avoid producing discovery. After instructing the Defense that it should not use the term "damage assessments" to refer to informal reviews of harm (instead, to use "working papers"), then referring to working papers as "damage assessments";
- j) Insisting on a threshold of specificity for *Brady* requests that does not exist or some additional showing of relevance;
- k) Maintaining that the FBI investigative file was not material to the preparation of the defense, to which the Court quizzically asked, "How could the investigative file *not* be material to the preparation of the defense?";
- l) Maintaining that anything that predated the Department of State Damage assessment was not discoverable because it was "likely" cumulative;
- m) Arguing with the Court at length about whether the Government was obligated to turn over documents that were obviously material to the preparation of the defense absent a "specific request";
- n) Waiting until two days before the Defense's Article 13 filing before reviewing 1374 emails from Quantico which it had in its possession for over six months.

318. The United States advanced each of these positions in an attempt to frustrate the Defense's access to discoverable information. This necessitated further delay to correct the Government's untenable positions, either through motions practice, 802 sessions with the Court, or otherwise. Therefore, these positions doubly compounded the already inexcusable delay caused by the Government's failure to understand its discovery obligations. The first stage of delay that occurred as a result of these meritless positions was the delay in the Defense receiving this discoverable information. The second stage of delay caused by these positions was the litigation

or conversations concerning their invalidity. Both stages of delay caused by these positions have contributed to the incredibly slow pace of the Government's discovery and to the continued rescheduling of PFC Manning's trial date. In short, each of these positions has caused further unwarranted delay to pile up on the Mount Vesuvius of delay that the Government has caused to accumulate in this case.

#### **iv. Government's Lack of Reasonable Diligence in All Aspects of Discovery**

319. Finally, even apart from the Government's inexcusable failure to understand its basic discovery obligations and its continued assertion of untenable discovery positions, there is ample evidence of the Government's overall lack of reasonable diligence in the processing of this case. One fact which speaks volumes is that the Government, by its own admission, did not start searching for *Brady* discovery until 28 April 2011, nearly one year after PFC Manning was placed in pretrial confinement. See Attachment A to Appellate Exhibit 243. What was the Government doing for this year? The OCAs, it must be recalled, were "in the process" of completing the classification reviews; the Defense had barely received basic discovery (it wasn't until 27 July 2011 that the Defense started to receive the bulk of the unclassified CID file, and it was not until 4 November of 2011, the month prior to the Article 32 hearing, that the Defense received any of the classified discovery); PFC Manning was languishing in a Brig under oppressive conditions. And what was the Government doing? No one knows. More detailed instances of a lack of diligence and unjustified delay are discussed below.

##### **(1) The Government's Failure to Search Its Own Files in a Timely Manner**

320. First of all, the Government's *Brady* search of Department of the Army files (i.e. its *own* files) completely flouts the reasonable diligence standard. The Government sent out a memo on 29 July 2011 to HQDA requesting it to task Principal Officials to search for, and preserve, any discoverable information. To put the 29 July 2011 date into perspective, PFC Manning was placed into pretrial confinement on 29 May 2010. Charges were originally preferred on 5 July 2010. Thus, this 29 July 2011 memorandum shows that the Government waited *over one year* after charges were preferred and PFC Manning was placed into pretrial confinement before even beginning its *Brady* search of its own files. Waiting a year to begin a *Brady* search of the Government's own files is not even close to reasonably diligent (and cannot be under any sensible interpretation of the phrase).

321. Moreover, a 17 April 2012 HQDA memorandum confirmed that no action had yet been taken on the 29 July 2011 memorandum. In other words, if it wasn't bad enough that the Government waited over a year to even start a *Brady* search of its own files, it didn't even realize that nothing had been done on its request for almost another full year. Therefore, almost two full years after PFC Manning's arrest, the Government had not even been able to complete a *Brady* search of its own files. This fact is disturbing, to say the least. To hold that the Government's discovery conduct has been reasonably diligent would make a complete mockery of that phrase.

322. Additionally, as the Defense pointed out in its Reply to the Government Response to the Supplement to the Defense Motion to Compel Discovery 2, the Government was still conducting its *Brady* search of DIA, DISA, CENTCOM, and SOUTHCOM files on 2 June 2012, 736 days

after PFC Manning was placed into pretrial confinement and 699 days after pretrial charges. Again, these files are the Government's *own* files. How the Government can assert in good faith that it has conducted its discovery obligations in a reasonably diligent manner is beyond comprehension. Whether the Government had been secretly conducting a re-review using the correct *Brady* standard or had been negligently or intentionally dragging its feet in discovery is ultimately beside the point. No matter the circumstances, the Government cannot justify the fact that it is still, well over two years after PFC Manning was placed in pretrial confinement, "in the process" of conducting its *Brady* search of its own files.

## **(2) The Government's Failure to Conduct a Timely Brady Search of the Files of Non-Military Agencies**

323. The Government's discovery mantra since referral has been that it is "in the process" of conducting its *Brady* discovery searches. Much like the situation described above with respect to its own files, as of June 2012, the Government was still "in the process" of searching the files of closely aligned agencies (such as ODNI, FBI, ONCIX, etc.). While some of these documents have since been produced—over two years after PFC Manning was placed in pretrial confinement—others have not.

324. On 25 July 2012, the Government requested leave of the Court until 14 September 2012 for the following: "(1) to disclose files not subject to the Court's 22 June 2012 order, if any, to the defense or to the Court for *in camera* review IAW RCM 701(g)(2) or MRE 505(g)(2), but which may contain discoverable material, or, (2) if necessary, to notify the Court with a status of whether the United States anticipates the custodian of classified evidence will claim a privilege IAW MRE 505(c) for the classified information under that entity's control and to file notice IAW MRE 505(i)(2)." See Appellate Exhibit 226. The Government stated that "The United States is in the process of completing its review of information that is not under the possession, custody, or control of military authorities and has not been specifically requested by the defense that is owned by the Central Intelligence Agency (CIA), the Department of Homeland Security (DHS), and Office of the Director of National Intelligence (ODNI). The United States is reviewing the information in accordance with their ethical obligation to search for potential *Brady* material and/or their legal obligations under *Williams* in accordance with the Court's 22 June 2012 Order." *Id.* Not surprisingly, the Government is still "in the process" of reviewing all this information for *Brady*. How the Government could not have completed the *Brady* search 839 days after PFC Manning was placed in pretrial confinement defies all logic. One would think that a five person prosecution team, backed by the resources of the United States government, would not need 839 days to conduct a *Brady* search of certain closely aligned agencies. Such delayed disclosure of *Brady* discovery hardly satisfies the R.C.M. 701(a)(6) requirement that such discovery be produced "as soon as practicable."

325. Further, the Defense made a request for *Brady* material from the President's Intelligence Advisory Board in October 2011. In its response to the Defense Motion to Compel Discovery #2, the Government stated, in a footnote, that it was "in the process" of searching for discoverable information from the Intelligence Advisory Board Government Response. See Appellate Exhibit XCVII, p. 4. The Government failed to explain why the Government was still "in the process of searching for discoverable information" seven months after the request was made. Why would it take seven months to search these files? The Defense would venture to

guess that the Government's "diligent" search began when the Government received the Defense's motion to Compel Discovery #2 on 10 May 2012.

326. Likewise, as far as the Defense is aware, the Government is still "in the process" of conducting its *Brady* search of all 63 agencies involved in this case. It is deeply troubling that the Government appears to be perpetually "in the process" of conducting these searches without ever reaching the finish line for any of them. Indeed, if there was ever a case where the Government was indefinitely moored in some "waiting posture," it would surely be this case. See *Mizgala*, 61 M.J. at 129 (expressing concern about Government spending too long in a "waiting posture"); *Hafield*, 44 M.J. at 24 (similar).

327. Equally troubling, it appears that the Government did not even begin reaching out to some of the 63 agencies to begin its *Brady* searches until mid-February 2012, nearly two years after PFC Manning was placed into pretrial confinement. See Appellate Exhibit CLXXIII, at 16-19. This revelation came as part of the ONCIX debacle, discussed in detail below, where MAJ Fein admitted that it was after reaching out to ONCIX that the Government became aware that it needed to contact the 63 agencies directly.

328. This, in turn, is inconsistent with the representation that the Government made at the very first 802 session on 23 February 2012 where it stated that it had *already* searched the files of the 63 agencies and not found any *Brady* material. See Article 39(a) Audio Recording 23 February 2012, (unauthenticated record of trial) at p. 39. The Government stated that it had searched different sub-agency files, even going so far as to the Department of Agriculture.<sup>27</sup> In this respect, the Court stated:

Court: The government advised the Court that although it has been extensively engaged in evaluating executive branch and sub-branch files for discoverable information prior to referral, the government's due diligence obligations under the *Brady Williams* case law; duty to find, evaluate and disclose favorable and material evidence to the defense will take additional time because of the need to cull through voluminous classified and unclassified information contained throughout executive branch [and] sub-branch agencies that have been involved in the classified information disclosure investigations.

*Id.* at p. 38. The Defense added the following:

Mr. Coombs: Just that when the government spoke about its *Brady* search they stated at that time they had not found any *Brady* material even though they had looked for over a year.

*Id.* at p. 39. The Court asked, "Is that correct?" to which MAJ Fein responded:

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<sup>27</sup> "Mr. Coombs: Even going so far as going to the Department of Agriculture to see if they had potential information there. And then they stated; and they even state it here, that they have not found any *Brady* material." Transcript at p. 106.

MAJ Fein: Your Honor, that is correct but also at the same time [we] stated that material continues to evolve because this is an on-going issue.

*Id.* Thus, it is not clear whether the Government began its *Brady* search of the 63 agencies prior or subsequent to February 2012. The Defense believes that the Government conducted an initial *Brady* review of documents at the 63 agencies under the incorrect *Brady* standard. After being set straight about what *Brady* actually entailed, the Defense believes that the Government secretly went back and re-reviewed the documents. The Government did not admit this, of course, as to do so would be to admit a profound lack of diligence. The Defense's theory is the only way that the Government's contradictory statements can be reconciled.

329. The inconsistencies in the Government's story have become par for the course in the deeply dysfunctional discovery process that has plagued this case. Whatever the truth of the matter is, one thing is clear: there has been an overwhelming lack of diligence in conducting *Brady* searches of the 63 agencies and of closely aligned agencies.

### **(3) The Government's Failure to Review Any Discovery from the Department of State for Nearly Two Years**

330. The Government has charged PFC Manning with the release of hundreds of thousands of diplomatic cables from the Department of State. One would think that approximately two years into the case, the Government would have, at the very least, reviewed key Department of State documents. Of course, as this Court knows, this is not so.

331. When the Government referred this case on 3 February 2012, it still had not reviewed the Department of State damage assessment, a critical document in the case. And, it wasn't until 18 May 2012 that the Defense actually was given access to the Department of State damage assessment, an assessment that had been prepared nearly a year earlier. The Defense's receipt of the Department of State damage assessment (or, more accurately, the ability to *view* the document under controlled circumstances defined by the Government) came after months of litigation about the meaning of a "completed" damage assessment versus a "draft" or "interim" damage assessment. Even after the Court ordered production of the damage assessment as clearly being within the purview of the Government's *Brady* obligations, the Government made one last "Hail Mary" attempt to avoid producing the document, under the authority of a concurring opinion in a 50-year-old case that was not even remotely on point. *See* Appellate Exhibit LXXV.

332. After the Court ordered that the Defense was entitled to discovery of the Department of State damage assessment, the Defense then began the process of trying to obtain other *Brady* discovery from the Department of State. The Government revealed in late May 2012, two years after PFC Manning was placed in pretrial confinement, that it had not even seen—much less begun reviewing—any other documents from the Department of State. In fact, it had no idea what documents existed at the Department of State. *See* Appellate Exhibit 100, at 2, ("The prosecution ... has consistently stated that the prosecution *intends* to review all documents for Brady and RCM 701(a)(6) material that is provided by the DoS that are responsive.") (emphasis supplied). That that Government didn't get around to even obtaining potentially relevant

documents from the Department of State for over 733 days speaks volumes about the lack of diligence that has permeated this case. When juxtaposed with the Government's witness list produced a short while later (on 22 June 2012) which names twenty-two individuals from the Department of State as witnesses, it is clear that what was going on: the Government was cherry picking evidence and witnesses from the Department of State to build its case, while failing to exercise even a modicum of diligence in fulfilling its *Brady* obligations for the Defense.

333. Unfortunately, the Department of State discovery saga did not end there. After the relevant files and documents were identified for the Government via the testimony of three Department of State witnesses, the Government requested an additional thirty days to respond. The Government's response after having been granted the additional thirty days to respond was more of the same unreasonable litigation positions that the Defense had witnesses many times before.

334. The Government's final attempt to protect the Department of State from having to turn over documents involved the Government arguing (undoubtedly at the behest of the Department of State) that the requested documents were cumulative because they predated the damage assessment. The Defense, by way of Response motion, pointed out the sheer absurdity of this position:

The Government wants this Court to rule that *anything* that predated the State Department damage assessment should not be produced because it is cumulative and not relevant and necessary. ...

The Government is asking for permission to simply exclude from discovery anything with a date that preceded the State Department damage assessment – which would, in effect, be *practically everything at the State Department*. It would have the Court do so on the sheer conjecture that this information “likely contributed to[] the Department’s draft damage assessment.” Government Response, at p. 5.

The Government’s request is breathtaking. It would have the Court deny discovery of facially relevant information because this information was “likely” considered by the State Department in compiling the damage assessment. The Government does not even bother to try to make the argument that the discovery is *actually* cumulative (i.e. it is duplicative of information in the damage assessment). That argument would not be true. Instead, it makes the argument that based on the fact that this material predates the damage assessment, it *must be* cumulative (i.e. it is *de facto* cumulative). The Government’s lack of logic continues to dumbfound the Defense.

Consider the implications of this request. All an agency would need to do to avoid discovery is to compile some type of ultimate assessment and then claim that anything that predated that assessment was “off limits” because it was somehow “considered” in developing the assessment. The contention is ludicrous.

Further, the volume of information that the Government would seek to have the court exclude from its discovery obligations is in the ballpark of 5000 pages. The Government believes that these 5000 pages must have “likely contributed to” the 150 page State Department damage assessment. It is hard to believe that the damage assessment is cumulative when, page-wise, there are thirty-three times more pages in the disputed discovery than in the damage assessment itself.

See Appellate Exhibit CCII, p. 2-3.

335. This litigation position was patently unreasonable, as reflected in the Court’s ruling. See Appellate Exhibit CCXXII. However, having to litigate yet another frivolous Government attempt to resist producing discovery further pushed back the discovery timeline.

336. The Government, after having thirty days to concoct the “predates therefore cumulative” theory, then asked for *additional* time to actually review the material that it resisted producing. The Court generously granted the Government until 14 September 2012 to produce documents from the Department of State, a total of 127 days after the Defense moved to compel discovery of these documents on 10 May 2012. The Government, however, offered no explanation for why it could not have completed this review sometime in the 742 days after PFC Manning had been placed in pretrial confinement. A reasonably diligent prosecutor would have been sure to review all critical documents in this case well before referral, and certainly well before being ordered to do so by this Court, so that the discovery period did not drag on for almost a year after referral.

337. On 14 September 2012, the prosecution made available to the defense for inspection all Department documents responsive to the above Court Order, or otherwise discoverable, for which redactions under RCM 701(g)(2) or MRE 505(g)(2) are not sought (i.e., approximately 6500 pages).” See Government *in camera* and *ex parte* Motion for Authorization of Redactions of Department of State Records under MRE 505(g)(2) and RCM 701(g)(2), p.2. And yet, even though the Government claims to have “made available” all Department of State documents, the Defense has not actually received these documents. In reality, the Government’s representation is, in fact, a misrepresentation as evidenced by its subsequent clarification:

For any captioned or otherwise particularly sensitive documents (as explained below, to include NODIS, EXDIS, Roger Channel, DS Channel, or DS-controlled) for which redactions are not sought, the Department *will make the documents* available to the defense counsel and their security experts to inspect at the Department until the end of the court-martial. For all remaining documents for which redactions are not sought, the prosecution *will deliver these documents to the defense by 21 September 2012*. The defense counsel and their experts are not authorized to share the information contained within these documents or their notes with the accused.

*Id.* at 5. Apparently, the Government “will make [certain] documents available” at the Department of State at some unknown point in time. For other documents, the Government “will deliver these documents to the defense by 21 September 2012.” *Id.* Accordingly, it is clear that the Government has not complied with the Court’s order to “disclose all discoverable



information ... to the Defense.” Instead of requesting leave of the Court to extend the deadline once again, the Government simply granted itself extra time while making it look like it had complied with the Court’s order by stating the information was available for inspection by the Defense. In addition to being yet another example of word games played by the Government, the inability to comply with the Court’s timeline further evidences the Government’s lack of diligence in this case. Provided the Defense actually receives the Department of State discovery on 21 September 2012 pursuant to the Government’s unilateral extension of time, these documents will come 846 days after PFC Manning was placed into pretrial confinement.

338. On 19 July 2012, the Court ordered the Government, *inter alia*, to provide to the Defense certain discovery from the Department of State, including dates and times that the Mitigation Team held meetings. It was not until 48 days later, 5 September 2012, that the Government actually got around to completing this task—or more specifically, that the Government tasked a paralegal from its arsenal of paralegals to complete the task. The list of meeting dates/times is inconsistent with the testimony of Department of State witnesses who believed that these meetings ended sometime in the summer of 2011. In reality, the Mitigation Team was still meeting as of 19 December 2011. This is information that is material to the preparation of the defense that should have been, and could have been, disclosed much sooner. There was no reason why the Government needed to sit on this aspect of the discovery request until 9 days before the discovery was technically due. The Government’s actions, unfortunately, are consistent with its overall approach to discovery in this case: as little as possible, as late as possible.

#### **(4) The Government’s Casual “Discovery” of Critical Documents**

339. In mid-June 2012, the Government notified the Defense that it had “discovered” an FBI impact statement. The Government’s revelation was startling, since the Government and the FBI had been conducting a joint investigation of the accused. The Government offered no explanation for why it had only just now, over two years after PFC Manning was placed into pretrial confinement, “discovered” the FBI impact statement. The Government also offered no explanation for why it did not disclose the impact statement (or even the fact of its existence) when the Defense requested “any report, damage assessment, or recommendation as a result of any joint investigation with the Federal Bureau of Investigation (FBI) or any other governmental agency concerning the alleged leaks in this case” way back in January of 2012. The Government has failed to answer even the most basic of questions: When was the impact statement prepared? When did the Government learn of the impact statement? Why did the Government not disclose its existence to the Defense or to the Court? At oral argument, the Defense pressed for answers to these questions. So did the Court. The Court asked MAJ Fein *when* the Government learned about the FBI impact statement.

Court: Alright, we will be addressing that aspect of this motion at the next session. I understand the Defense’s argument. Government, are you prepared to tell me when you did know about this impact statement or impact assessment?



MAJ Fein: Your Honor, the Government would like to at least have a chance to argue the due diligence argument first and then answer that in (inaudible) Court's order.

Article 39(a) Audio Recording 6 June 2012. MAJ Fein indicated that he would provide an answer to the Court's very straightforward question as part of the Government's due diligence submission, for which he had requested a two-week extension. MAJ Fein did not address the FBI impact statement *at all* in the Government's 20 June 2012 submission. To date, the Government has not answered any question about the FBI impact statement. Because to answer any such question would be to reveal publicly what everybody already knows: the Government has been wholly negligent in carrying out its discovery obligations.

340. The FBI impact statement is not the only document that the Government happened to "discover" two years into the case. The Government also "discovered" that the Department of Homeland Security had conducted a damage assessment. But that's not all. The Government also "discovered" that the Other Government Agency had conducted a second damage assessment. *See* Appellate Exhibit CCVIII.<sup>28</sup> And let us not forget that the Government "discovered" that ONCIX did, in fact, have a draft damage assessment which would likely be discoverable. It is inexcusable that the Government "discovered" the existence of these important documents, as if by pure chance. The Government is the agency that is prosecuting PFC Manning. Its job is to "discover" the existence, or potential existence, of these documents in a timely manner. Its job is not to sit back and wait to stumble across relevant documents two years into the case. The Government fails to explain why it did not, or could not reasonably have, "discovered" these documents earlier. Again, these casual and last minute "discoveries" speak volumes about the Government's lack of diligence in prosecuting this case.

#### **(5) The Government's Attempt to Cover up Its Lack of Diligence with Respect to the ONCIX Damage Assessment**

341. The Defense maintains that the ONCIX fiasco reveals that the Government is not simply inept, but untrustworthy as well. The Government's dishonesty with respect to the ONCIX damage assessment shows a "deliberate intent to harm the accused's defense" and weighs significantly in the Article 10 calculus. *See Simmons, supra* at \*9 (noting that "negligence is obviously to be weighed more lightly than a deliberate intent to harm the accused's defense").

342. To recap briefly, at the 15 March 2012 motions argument, the Government represented that the Department of State had not "completed" a damage assessment and that ONCIX had not "completed" a damage assessment. After the motions argument, on 21 March 2012, the Court asked the Government to respond to questions regarding whether certain agencies had damage assessments. The Government's responses with respect to the Department of State and ONCIX were as follows:

- a) DOS – "DOS has not completed a damage assessment."

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<sup>28</sup> The Government apparently did not know about this second damage assessment at the 6 June 2012 motions hearing, as no mention was made of it when the Court specifically asked about files from the Other Government Agency.

- b) ONCIX – “ONCIX has not produced any interim or final damage assessment in this matter.”

See Prosecution’s Response to Court’s Email Questions dated 21 March 2012. The Court and the Defense knew, based on previous oral argument and public statements, that the Government’s statement regarding the Department of State meant that the Department of State had something (i.e. a draft) – even though there was not a “completed” damage assessment. With respect to ONCIX, the Government’s phraseology that ONCIX had neither a completed nor interim damage assessment was designed to deceive the Court and the Defense into believing that *nothing* existed in the hands of ONCIX.

343. The Government had numerous occasions to correct the misimpression it had deliberately created. It did not. The Court was troubled by this:

Court: Why did you tell me back on the 21<sup>st</sup> of March that NCIX or ONCIX had no damage assessment? Those were not the exact words you used but go ahead and tell me-

MAJ Fein: Correct your Honor. Your Honor, frankly. Because we do not have access. Or even knowledge, absent us asking a question and receiving it to these files because of the nature of this type of assessment. We ask the questions based off of the Defense’s discovery requests.

Article 39(a) Audio Recording 6 June 2012. MAJ Fein implied that he did not have any “knowledge” of the damage assessment; he later admitted that he knew the whole time that ONCIX was working on a damage assessment. If the Government knew that ONCIX was working on a damage assessment, why did it not tell the Court on 21 March 2012? It was clear what the Court was asking at the time – did ONCIX have some type of damage assessment, whether in draft or final form? The Government deliberately misled the Court in not supplying a full answer to the Court’s question. This was an obvious attempt to avoid having to produce the ONCIX damage assessment to the Defense.

344. MAJ Fein on behalf of the Government provided a long-winded and contradictory explanation of what apparently happened between ONCIX and the Government. At bottom, he maintained that the Government kept asking questions and ONCIX kept giving the Government the same pro forma response: “ONCIX has not produced any interim or final damage assessments in this matter.” See Appellate Exhibit CLII, p.4. As argued in detail in Appellate Exhibit CLXXIII, the Government’s version of events simply does not ring true.

345. The ONCIX saga plainly shows one of two things. Either it shows: a) that the Government in this case was not diligent in keeping abreast of what discovery was in the hands of ONCIX, and then sought to cover up that lack of diligence through a series of half-truths; or b) that the Government actually knew what was in the hands of ONCIX but avoided disclosing that information until it felt that it could no longer get away with it, and the concocted a convenient (but implausible) back-story to explain its failure to be forthright. Regardless of which actually

transpired, both speak volumes about the abject failures of the Government to process this case expeditiously and to exhibit candor with the Court.

**(6) The Government's Inability to Process Any Discovery Matter in an Expeditious Manner**

346. The Government has shown itself incapable of processing any discovery matter in this case in a diligent and expeditious manner. For instance, the Government caused further delay as a result of its failure to claim any privileges in a timely manner. The case was referred to this Court on 3 February 2012. The Government, if it was processing this case in a reasonably diligent manner, should have been in a position to claim any privileges on that date. Instead, the Government needed to wait until 18 May 2012, almost four months after referral, in order to decide whether it would claim any privileges. After that time, the Government would resort to its "we need to consult with the equity holders" refrain to request an additional 45-60 days to determine whether to claim a privilege. *See e.g.* Appellate Exhibit CXCII, at 6 ("Assuming, *arguendo*, the Court orders production of the above records or some portion thereof, the prosecution requests no less than 45-60 days to notify the Court whether the Department will seek limited disclosure under MRE 505(g)(2) or claim a privilege under MRE 505(c) and to produce the documents under RCM 701(g), MRE 505(g)(2), or MRE 505(c), if necessary."). Why couldn't the Government consult with the equity holder *in advance* to determine whether privilege would be claimed in respect of certain documents? It's not like the Government didn't know that the issue of privilege would come up; after all, this is a classified evidence case. The Government has apparently been unable to multi-task for the duration of this case.

347. As another example of the Government's inability to complete any task in a timely manner, even when the Government promised the Defense discovery by a certain date (which was always long after the Defense requested the information), the Government proved itself unable to keep its deadlines. For example, after notifying the Defense that most of the 14 computer hard drives that were the subject of the first motion to compel and this Court's 23 March 2012 order had been wiped or were inoperable, the Government represented that the 4 remaining hard drives would be provided by 18 May 2012. The hard drives were not provided on 18 May 2012. On 29 May, the Defense asked when it should expect to receive the hard drives. The Government indicated that they would have approval by the end of the week. When it was all said and done, the Defense did not receive the hard drives until 5 June 2012, almost three weeks after the 18 May 2012 deadline set by the Government. There are numerous other instances where the Government has promised discovery by a certain date only to provide that discovery, if at all, well beyond that deadline, but this already lengthy motion would turn into a tome if all of those instances were chronicled.

348. A recent discovery request is also illustrative of the Government's lethargic response rate. On 9 July 2012, the Defense requested the following discovery from Quantico:

The Defense requests that the Government provide a copy of the video referenced in Bates Number 00042936. According to LCPL J.E. Miller, the Quantico Brig recorded an incident where the guards had to assist in freeing PFC Manning from the suicide smock that he was wearing.

See Defense Discovery Request, dated 9 July 2012, Attachment 68

349. Despite various follow-up emails from the Defense, it wasn't until 13 September 2012 that the Government responded in a mere three sentences:

RESPONSE: The Quantico video does not exist. The United States conducted a search but could not locate the video. See Enclosure 1; Enclosure 2.

RESPONSE: The Prosecution has provided all matters requested that are in the Government's possession and understands its continuing obligation to provide information responsive to this request.

See Government Discovery Response, Attachment 69. A 66-day turnaround time for a very basic discovery request is not reasonable, but is unfortunately illustrative of the total lack of diligence that the Government has exhibited throughout this case.

**(7) The Government's Failure to Review and Disclose the Existence of Quantico Documents that Had Been in Its Possession for Over Six Months**

350. Finally, the Government substantially delayed the Article 13 motions hearing by its literal eleventh hour disclosure of emails from Quantico that it had been sitting on for months. The Government represented to the Defense that it had the emails in its possession for at least six months prior to the date the Defense Article 13 Motion was due. See 27 July 2012 Email from MAJ Fein to Mr. Coombs, Attachment 64.

351. As far back as December 2010 when the Defense filed its initial complaint concerning Article 13, the Government knew that an Article 13 motion would be filed. At the very latest, the Government knew that the Defense would be filing an Article 13 motion after the first motions hearing in February 2012. And yet, despite knowing about the Article 13 motion before it claims to have even received the emails, the Government did not begin its search of these emails until 25 July 2012, two days before the Defense Article 13 Motion was due. See 27 July 2012 Email from MAJ Fein to COL Lind, MJ, Attachment 63. In defense of its incredibly late disclosure of the emails, the Government attempted to point out that it disclosed the emails within 24 hours of finding that some of the emails were "obviously material to the preparation of the defense for Article 13 purposes." *Id.* This excuse neglects to mention why the Government waited until two days before the motion was due before it began its review of the emails when the emails had been in its possession for over six months, knowing for that entire six-month period about the certainty that an Article 13 motion would be filed. The Government likely offered no excuse for that delay because it is simply inexcusable. The failure to search emails between Quantico officials concerning PFC Manning's confinement conditions until two days before the motion challenging PFC Manning's confinement conditions while at Quantico is worlds apart from reasonable diligence. What's more, the Defense had made a specific discovery request for any documentation pertaining to PFC Manning's confinement on 8 December 2010, 596 days before the Government even began its review of these emails. While the Government disclosed a bevy of evidence responsive to this request, it surreptitiously withheld the emails.

352. When it did finally disclose the emails to the Defense the night before the Article 13 motion was due, the Government provided the Defense with 84 emails that were “obviously material to the preparation of the defense.” See Attachment 62. The Defense was troubled by the Government’s use of the expression “obviously material to the preparation of the defense.” Accordingly, the Defense sent an email to the Government asking whether there were documents that were material to the preparation of the defense, but not *obviously* material to the preparation of the defense. See Appellate Exhibit 243, Attachments; see also Appellate Exhibit 260. Two prosecutors from the Government (CPT Morrow and CPT Overgaard) responded that the Government has produced all emails that were material to the preparation of the defense, not simply those that are obviously material (i.e. the Government was not drawing a distinction between “material” and “obviously material”). *Id.* The Defense then asked how many emails the Government had reviewed; the Government indicated that it had reviewed 1374 emails. *Id.* That the Government waited until 2 days before the Defense filed the Article 13 motion before even looking at one of the 1374 emails is astonishing. What would possess a prosecutor, sitting on a trove of obviously relevant documents, to simply ignore them for months upon end? The lack of diligence is beyond comprehension.

353. On 17 August 2012, the Defense submitted a motion to compel production of the remaining 1,290 emails. See Appellate Exhibit 243. At this point, the Government decided to voluntarily disclose 600 more emails to the defense, as constituting documents that are “material to the preparation of the defense.” Accordingly, it is clear that the Government was not completely truthful to the Defense about having disclosed all documents that were material to the preparation of the Defense. Again, this is part of a pattern by the Government to withhold damaging and embarrassing discovery at all costs.

354. The Court considered *in camera* whether the remaining 690 emails should be produced as being material to the preparation of the defense. The Court ruled on 14 September 2012 that 678 of these emails were material to the preparation of the defense and ordered that they be produced promptly. See Court Ruling Defense Motion to Compel #3, dated 14 September 2012.

355. It is important to put in perspective the veritable gulf that existed between what the Government originally believed what was material to the preparation of the defense and what the Court believed was material to the preparation of the defense. The Government would have produced a mere 6% of the emails as being material to the preparation of the defense. The Court, on the other hand, saw 99% of the remaining emails as being material to the preparation of the defense. What is clear is that the Government has no clue how to apply the standard in R.C.M. 701(a)(2). After all the Defense has endured with the Government’s tactics at hiding discovery, the Government’s incompetence should come as no surprise. While there can be legitimate arguments about what is or is not material to the preparation of the defense, when the Government is *that far off* in gauging materiality, the conclusion is a singular one: the Government has not been diligent in fulfilling its discovery obligations.

356. It is worth noting that it is only because the Government “got caught” that the thousand plus other emails have seen the light of day. Had the Defense simply accepted the Government’s word that it had produced everything that was material to the preparation of the defense (as most

defense counsel are forced to do), the Government would have been able to secret these emails away to avoid the embarrassment that will eventually befall many individuals implicated in what happened at Quantico. As a result of the Government's profound lack of diligence with respect to these emails, the consideration of this motion has been delayed even further. The Defense has had to file a supplemental Article 13 motion, and may be required to file a further supplemental motion. The Defense has also had to file and litigate a new request for witnesses. *See* Argument, Part B.4, *infra*. Moreover, the late and piecemeal disclosure of these emails has resulted in the Article 13 motion not being presented in the manner of the Defense's choosing. The fragmented nature of the Defense's argument may (but hopefully will not) undermine the persuasiveness of the overall argument.

#### **(8) Multiple Discovery Issues are Still Outstanding**

357. As discussed above, a large volume of discovery is *still* outstanding. As of 14 September 2012, 839 days after PFC Manning was placed in pretrial confinement, the Government was still in the process of producing discovery from the Department of Homeland Security, the Department of State, Government Agency, ODNI and the FBI. *See* 14 September 2012 Email from MAJ Fein to COL Lind, Attachment 70. On that date, the Government also provided the Court with proposed redactions and substitutions for several documents under M.R.E. 505(g). The Court will need to review these documents and decide whether the proposed redactions and substitutions are adequate. If they are not, as has been the case with previous Government M.R.E. 505(g) submissions, additional time will be required for the Court and the Government to confer on appropriate redactions and substitutions. And, if the Court decides that that the redacted information is necessary to enable the accused to prepare for trial, then the Government will need additional time to determine whether an equity holder will claim a privilege. *See* Government *in camera* and *ex parte* Motion for Authorization of Redactions of Department of State Records under MRE 505(g)(2) and RCM 701(g)(2), p 5 ("Should the Court find the redacted information is discoverable under RCM 701(a)(6) or *Brady/Giglio*, relevant and necessary or responsive to the Court's Order for production under RCM 703(f), or is 'necessary to enable the accused to prepare for trial' under MRE 505(g)(2), then the prosecution requests the opportunity to either: (1) address the Court's findings with the relevant government agency to determine whether a different alternative under MRE 505(g)(2) is appropriate and file that alternative with the Court, or (2) allow for the relevant government agency to claim a privilege under MRE 505(c) and the prosecution to move for an *in camera* proceeding under MRE 505(i).").

358. To be clear, we are not talking about one or two documents that are still outstanding. Thousands of documents have yet to be produced to the Defense. The Government indicated that there are at least 6500 pages from the Department of State that have yet to be produced. It defies logic that 839 days into the case, the Government has still not provided the defense with all documents from a key organization. How can the defense prepare for both the merits and sentencing when every document from the Department of State (except for the damage assessment) has yet to be produced? How the Government could charge PFC Manning with the compromise of hundreds of thousands of Department of State cables, but fail to provide any documentation from the Department of State for well over two years defies all logic and speaks to an inept prosecution. Under no stretch of the imagination can the Government's actions in regard to this discovery be characterized as reasonably diligent.

359. The foregoing is not meant to be an exhaustive list of the many instances that reveal the Government's lack of reasonable diligence in the discovery phase of this case.<sup>29</sup> Rather, the purpose has been simply to provide this Court with telling examples of the Government's profound lack of reasonable diligence in order for it to more clearly see that the Government's processing of this case as a whole cannot be characterized as reasonably diligent under any sensible interpretation of that term.

### **c. Total Delay**

360. The undeniable fact of the matter is that PFC Manning has spent the last 845 days in pretrial confinement and still has not had his day in court. If this Court fails to grant the appropriate relief, PFC Manning will have spent 983 days in pretrial confinement before his trial rolls around. This case has been marred with inexplicable discovery errors and an overall unmistakably lethargic pace in the processing of this case. Try as it might, the Government cannot convincingly explain away the fact that PFC Manning has spent 845 days in pretrial confinement (and will conceivably spend over a hundred additional days in pretrial confinement before any evidence is offered against him). Therefore, this second factor in the Article 10 procedural framework and Sixth Amendment analysis must be resolved in PFC Manning's favor.

### **3. Demands for Speedy Trial**

361. PFC Manning promptly made two speedy trial demands. He made his first request on 13 January 2011. 13 January 2011 Defense Speedy Trial Request, Attachment 20. He then renewed his speedy trial request on 25 July 2011. 25 July 2011 Defense Opposition to Government Request for Delay, Attachment 40. Moreover, these speedy trial demands were reiterated in each of the several Defense oppositions to the Government's many requests for delay of the Article 32 hearing. *See* 26 April 2011 Defense Response to Government Request for Delay, Attachment 31 (requesting summaries of or substitutions for withheld classified

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<sup>29</sup> There are countless other illustrations of the Government's lack of diligence in this case, independent of the discovery issues. Among them:

- The Government has repeatedly requested additional time to complete simple tasks and to respond to straightforward motions;
- The Government has repeatedly promised to "get back to" the Court on various issues in oral argument and rarely does;
- The Government still has not provided "timely and meaningful" access to Ambassador Kennedy, as promised when it required the Defense to file a *Touhy* request;
- The Government has frequently shifted litigation positions, suggesting that its positions are borne of convenience and not of principle (consider, for instance, the Government's thrice-shifting argument on whether Army Regulation 380-5 was punitive in nature and its arguments on "exceeds authorized access");
- The Government's email system has been plagued by errors that still have not been fixed. Given the volume of email traffic, these issues should have been sorted out months ago;
- The Government's about-face on complying with the Protective Order with respect to Defense redacted motions. The Government argued that it was simply too difficult for it to continue reviewing the redactions;
- The Government's failure to organize logistical issues in a timely manner (e.g. its requirement for a 30 day OPLAN Bravo Order prior to the Article 32, etc.).



evidence in order to minimize delay and requesting any delay be credited to the Government for speedy trial purposes); 24 May 2011 Email from Mr. Coombs to COL Coffman Opposing Government Request for Delay, Attachment 34 (reiterating same position and requesting any delay be credited to the Government for speedy trial purposes); 29 June 2011 Email from Mr. Coombs to COL Coffman Opposing Government Request for Delay, Attachment 37 (same); 27 August 2011 Email from Mr. Coombs to COL Coffman Opposing the Government's Request for Delay, Attachment 44 (same); 27 August 2011 Email from Mr. Coombs to COL Coffman Opposing the Government's Request for Delay, Attachment 47 (same); 25 October 2011 Email from Mr. Coombs to COL Coffman Opposing Government Request for Delay, Attachment 51 (same); 16 November 2011 Email from Mr. Coombs to COL Coffman Opposing Government Request for Delay, Attachment 55 (same). Since referral, the Defense has also raised its speedy trial concerns in connection with the Government's discovery delays. *See* Appellate Exhibit XXXI, at 4; Appellate Exhibit XLIII, at 15.

362. Furthermore, PFC Manning's 13 January 2011 speedy trial request, when judged in relation to his total period of pretrial confinement, was made early in the processing of his case, long before his arraignment and the litigation of this speedy trial motion. In *Thompson*, the Court observed that the accused "did not make a speedy trial request during the entire pretrial day period addressed by the military judge." 68 M.J. at 313. Instead, the accused in *Thompson* did not make her speedy trial request until a mere five days before her arraignment and the litigation of the speedy trial motion. *See id.* at 610. Here, by contrast, PFC Manning made his first speedy trial request well in advance of both his arraignment and the litigation of this motion: 407 days before his arraignment on 23 February 2012 and 657 days before the litigation of this speedy trial motion, to be precise.

363. Finally, there can be no dispute regarding the genuineness of PFC Manning's 13 January 2011 and 25 July 2011 speedy trial requests. *Cf. Kossman*, 38 M.J. at 262 (indicating that an accused speedy trial request must be genuine).

364. For these reasons, the third factor in the Article 10 procedural framework and Sixth Amendment analysis must be resolved in favor of PFC Manning.

#### **4. Prejudice to PFC Manning**

365. As mentioned above, *see* Legal Framework, Part B, *supra*, the prejudice factor of the Article 10 and Sixth Amendment inquiries is concerned with protecting three interests of the accused which speedy trial rights were designed to protect: "(i) to prevent oppressive pretrial incarceration; (ii) to minimize anxiety and concern of the accused; and (iii) to limit the possibility that the defense will be impaired." *Barker*, 407 U.S. at 532; *Cossio*, 64 M.J. at 257; *Mizgala*, 61 M.J. at 129. In this case, all three of these interests of PFC Manning have been violated by the Government's processing of this case.

With regards to the first interest – prevention of oppressive pretrial incarceration – PFC Manning endured extremely oppressive pretrial confinement during his time in Quantico, Virginia. *See* Appellate Exhibit 258, at 4, 8-11, 27, 35-37. For 265 days of the 845 days of PFC Manning's continuous pretrial confinement as of the date of this motion, PFC Manning was held in



conditions tantamount to solitary confinement at the Quantico Brig. *See id.* at 4. Additionally, he was also held on Suicide Risk in Kuwait for his first two months of pretrial confinement, bringing his final total of solitary confinement-like conditions to 326 days out of his total 845 days in pretrial confinement. *See id.* at 49. While at Quantico, PFC Manning was held under a combination of MAX custody and POI status. *Id.* at 8. That combination meant that for approximately 9 months while at Quantico, PFC Manning was held in his 6x8 cell for 23-24 hours a day. *Id.* His cell did not have a window or any natural light. *Id.* PFC Manning was subjected to constant monitoring, being asked by the Brig guards literally every five minutes whether he was alright. *Id.* at 9. Guards would sometimes wake him in the middle of the night if his face was not visible while he was sleeping. *Id.* In addition, PFC Manning was prohibited from talking to other detainees, exercising in his cell, or even lying down in his rack or leaning up against the wall of his cell during the duty day. *Id.* at 8-11. Finally, PFC Manning was only permitted 20 minutes of exercise time a day for the first six months of his time at Quantico, which he spent walking around a small concrete yard. *Id.* at 8. In December of 2011, the Quantico Brig graciously extended the 20 minutes of recreation call to 60 minutes. *Id.*

366. As if his solitary confinement under MAX custody and POI status was not onerous enough, PFC Manning was subjected to heightened, Suicide Risk type restrictions on two occasions during his confinement at Quantico. *Id.* at 27. The Suicide Risk restrictions were severe. *Id.* PFC Manning was stripped of all clothing with the exception of his underwear. *Id.* PFC Manning's prescription eyeglasses were taken away from him and he was forced to sit in his cell in essential blindness. *Id.* At night, he was forced to surrender his underwear and sleep naked. *Id.* For a consecutive four day period, PFC Manning was forced to stand naked at parade rest where he was in view of multiple guards. *Id.* at 37. Finally, from 7 March 2011 until his transfer from Quantico to the JRCF on 20 April 2011, PFC Manning was required to wear a heavy and restrictive suicide smock which irritated his skin and, on one occasion, almost choked him. *Id.* In total, PFC Manning spent 53 of his 265 days at Quantico under these inhumane conditions. Not surprisingly, the United Nations Special Rapporteur on Torture, Mr. Juan Méndez, concluded that PFC Manning's treatment at the hands of the Quantico officials constituted "at a minimum[,] cruel, inhuman and degrading treatment in violation of article 16 of the convention against torture. If the effects in regards to pain and suffering inflicted on Manning were more severe, they could constitute torture." *Id.* at 41.

367. Moreover, this case is readily distinguishable from *Thompson*, where the Court identified two critical considerations that contributed to its finding that the accused's pretrial confinement was not oppressive for purposes of Article 10. 68 M.J. at 313-14. First, the accused in *Thompson* failed to raise even a single formal or informal complaint about her confinement conditions or to request a change in her confinement conditions. *Id.* Second, the accused entered into a pretrial agreement in which she expressly waived her ability to assert a claim for relief under Article 13 for illegal pretrial punishment. *Id.* Here, by contrast, PFC Manning, both of his own accord and through counsel, made numerous formal and informal complaints regarding his harsh confinement conditions at Quantico, in addition to several requests to be taken off of MAX custody and POI status. *See* Appellate Exhibit 258, at 47-49 (chronicling the several requests made by Mr. Coombs to the SJA's Office as well as PFC Manning's DD Form 510 complaint, request for release from pretrial confinement under R.C.M. 305(g), and Article 138 requests and rebuttals). Additionally, far from waiving the ability to assert an Article 13

claim for relief, PFC Manning recently filed an Article 13 Motion to Dismiss All Charges, which spans 110 pages and lays out the oppressive treatment of PFC Manning in painstaking detail. See Appellate Exhibit 258. A supplementary Article 13 motion was also filed in response to the late disclosure of critical emails. See Appellate Exhibit 260. This case, then, stands in stark contrast to *Thompson* with respect to the two considerations relied on by the *Thompson* Court. See 68 M.J. at 313-14.

368. Therefore, PFC Manning's pretrial confinement has plainly been oppressive for purposes of the prejudice factor in the Article 10 analysis.

369. Turning to the second interest of the accused sought to be protected by the speedy trial rights, PFC Manning suffered substantial anxiety and concern in his 845 days of pretrial confinement. See Appellate Exhibit 258, at 4, 13, 28, 31-33. As an initial matter, the sheer inordinate length of PFC Manning's pretrial confinement itself leads to the common sense conclusion that PFC Manning must have suffered serious anxiety and concern. The Navy-Marine Court of Criminal Appeals' decision in *Calloway* is instructive in this regard. In *Calloway*, the court reversed the military judge's denial of the accused's Article 10 motion to dismiss and held that the Government had violated the accused's Article 10 speedy trial rights by not trying him after he had spent 115 days in pretrial confinement. 47 M.J. at 787. The *Calloway* Court explained the resolution of the prejudice factor in this case:

The prejudice suffered by the appellant is self-evident in the fact of his confinement. He has been deprived of his liberty for 115 days. Our supervisory court has stated that "3 months is a long time to languish in a brig awaiting an opportunity to confront one's accusers[.]" We perceive that the 115 days that the appellant languished in the brig was longer than Congress considers appropriate, when there was no showing of a reasonably diligent effort by the government to bring him to trial, or even to inform him of the charges against him.

*Id.* at 785 (quoting *Kossman*, 38 M.J. at 261) (citation omitted). Surely if prejudice is "self-evident" in the fact of 115 days of pretrial confinement, *id.*, the substantial prejudice involved in languishing in pretrial confinement for 845 days must be equally unmistakable, if not more so.

370. Moreover, apart from the ordinary anxiety and concern that accompanies any lengthy pretrial confinement, PFC Manning suffered anxiety and concern above and beyond the norm as a result of the oppressiveness of his confinement. For example, during his time in Kuwait from 31 May 2010 until 29 July 2010, PFC Manning's mental health deteriorated. Appellate Exhibit 258, at 4. PFC Manning was anxious, confused and disoriented for much of his time in Kuwait. *Id.*

371. Additionally, PFC Manning's anxiety was only amplified upon his arrival at the Quantico Brig. As was explained by Captain William Hocter, the forensic psychiatrist for the Brig, the "[s]uicide precautions and POI [imposed upon PFC Manning while he was at the Brig] were excessive and were making [PFC] Manning unnecessarily anxious." *Id.* at 13 (quoting affidavit of Captain William Hocter). Indeed, the strain on PFC Manning caused by his excessive confinement conditions was readily apparent in an episode that occurred 18 January 2011. After

being harassed by the Brig guards both inside his cell and during his brief period of exercise, PFC Manning suffered an anxiety attack. *Id.* at 28. His heart was pounding in his chest, and he could feel himself getting dizzy. *Id.* The stress PFC Manning was experiencing was so severe that he needed to sit down to avoid falling down. *Id.* In his conversations with two Brig officials after his anxiety attack, PFC Manning's concern for and frustration at his confinement conditions was evident. As for the anxiety attack itself, PFC Manning explained that his anxiety increased because the Brig guards who were harassing him were "edgy" and "anxious." *Id.* at 31. He further explained that he was feeling lightheaded because he was hyperventilating. *Id.* Moving the conversation to the more general topic of his confinement conditions at Quantico, PFC Manning related that he was growing increasingly frustrated. *Id.* at 32. He revealed his "main concern" each day: "[H]ow do I get off of POI status? How do I get off of POI status? When will I be taken off of POI status? What is being used to justify the precautions?" *Id.* PFC Manning explained his frustrating belief that nothing he could do would change the conditions of his confinement: "I feel like the facility, honestly, I feel like the facility is looking for reasons to keep me on POI status." *Id.* at 33.

372. Of course, there was no improvement in PFC Manning's confinement conditions during the remainder of his time at Quantico. In fact, things got even worse, as PFC Manning was placed under a version of pseudo-Suicide Risk restrictions for a total of 53 days out of the remainder of his 93 days at Quantico after 18 January 2011. *Id.* at 27, 35-37. These restrictions could only exacerbate PFC Manning's already heightened anxiety and concern caused by his pretrial confinement. In addition to being severely onerous, these restrictions above and beyond PFC Manning's MAX custody and POI status restrictions were also humiliating and degrading; over a span of four straight days, PFC Manning was forced to suffer, for no apparent legitimate reason, the humiliation of standing naked at parade rest in front of several Brig guards for several minutes each time. After PFC Manning realized that there was nothing he could do to change the conditions of his confinement, he became more withdrawn. As chronicled in the Article 13 motion, this was then used against him in justifying the MAX and POI designations.

373. Therefore, PFC Manning's pretrial confinement has caused PFC Manning to suffer substantial anxiety, concern, frustration and humiliation.

374. Finally, moving to the third, and most important, *see Barker*, 407 U.S. at 532; *Cossio*, 64 M.J. at 257; *Mizgala*, 61 M.J. at 129, relevant interest of the accused – limiting the possibility of impairment of the defense – PFC Manning's ability to effectively prepare his defense was substantially impaired by the Government's profound delay in processing his case. Most glaring has been the Government's inexplicable failure to understand its discovery obligations and to timely conduct its required *Brady* searches. *See* Argument, Part B.2.b.ii, iv, *supra*. How much evidence was either lost or destroyed as a result of the Government's inexplicable failure to understand its discovery obligations for 698 days? There is simply no way to know. The Government will no doubt seize on this point, claiming that any assertion of prejudice resulting from its profound misunderstanding of how military discovery operates is speculative at best. But this argument would miss the point entirely. To the extent that the Defense's claim that the Government's discovery missteps caused evidence to be lost or destroyed is speculative, this is only because the Government's failure to understand its discovery obligations for such a long period of time raises serious concerns about spoliation of evidence. If the Government

understood its discovery obligations from day one of this case, as any reasonably diligent prosecutor would, the case would not still be mired in discovery and the Defense would have no reason to fear that evidence has been lost or destroyed as a result of any inexcusable delay. But this case has not been processed in a reasonably diligent manner. Therefore, because of the substantial delay, which has been seriously compounded by the Government's failure to understand its discovery obligations for the first 698 days of this case, the impairment of the defense cannot even be quantified.

375. Plus, the Government is still "in the process" of conducting its *Brady* searches, including *Brady* searches of its own files. See Argument, Part B.2.b.iv, *supra*. This case has been ongoing for 845 days. And the Defense is *still* waiting for the Government to finish its *Brady* searches. In the meantime, the Defense has just recently received critical *Brady* discovery, and it is still awaiting more critical discovery. When the Defense at long last receives all of the discoverable information it has requested, the Defense will need time to review the evidence in planning PFC Manning's defense. Receiving discovery from the Government in dribs and drabs over the course of two years is representative of the Government's lack of due diligence.

376. PFC Manning has also suffered prejudice to the preparation and presentation of his defense by the Government's lack of diligence that is separate and apart from its inexcusable failure to understand its discovery obligations. For example, the Government's lack of diligence in responding to the Defense's discovery requests potentially resulted in the loss of evidence. On 21 September 2011, the Defense requested the preservation of 14 computer hard drives. It was not until that 30 November 2011 that the Government notified the Defense that it was seeking to preserve the requested forensic computer images of the hard drives. Moreover, even before the Defense's request, the CID requested that the hard drives be preserved in September 2010. Nevertheless, the Government notified the Defense on 16 April 2012, eighteen months after the CID's preservation request, that 2 drives were completely inoperable, 7 drives were wiped, and 1 drive was partially wiped. See Appellate Exhibit XXXI, at 15-16. While the email did not state when the 8 drives were wiped, if the Government had acted more quickly on the September 2010 CID preservation request, perhaps the wiped drives would have been preserved. Since the Government waited until 30 November 2011 to begin the process of preserving the requested forensic images, over a year and two months after the CID's preservation request, the Government's lack of diligence may have resulted in this loss of evidence.

377. Moreover, the Government's lack of diligence impacted PFC Manning's ability to defend himself at the Article 32 hearing. The Government unloaded a barrage of discovery and forensic evidence in the month or so before commencement of the Article 32 hearing, despite the fact the case had been ongoing for over a year and a half at that time. Because of the sheer volume and lack of organization of this discovery, it was impossible for the Defense to sort through the material and organize it in any coherent manner before the Article 32 hearing took place. Accordingly, the Defense was deprived of the ability to use this evidence at the Article 32 hearing as a result of the Government's untimely disclosure. See Footnote 3, *supra*.

378. Finally, the Government's incredibly belated disclosure of the Quantico emails on the night before the Article 13 Motion was due also prejudiced the Defense. The Defense was not able to incorporate these emails into its original motion, so the Defense was required to file a 27 page

supplemental motion shortly after receiving the emails. The emails impacted the witness list for the motion. Because of the late disclosure of the emails, the Article 13 motions hearing was pushed back yet again, from late August all the way to late November. Additionally, because the Government only disclosed 84 of the over one thousand emails, the Defense was required to file yet another motion to compel discovery. The Court has subsequently ordered that virtually all the emails be produced to the Defense. The Defense will have to cull through all these emails and potentially file another supplementary motion and/or update its witness list. Most importantly, the Government's lack of diligence prevented the Defense from presenting the Article 13 motion in the manner of its choosing. The Defense would certainly have preferred to have filed one Article 13 motion, rather than one Article 13 motion plus two supplementary motions (not to mention multiple replies to Government responses). If only the Government had diligently reviewed the emails and disclosed them to the Defense, the Article 13 motions and hearing would have been able to proceed on schedule. Because of the Government's lack of diligence, further delay has been piled upon PFC Manning. Therefore, PFC Manning's defense has been impaired by the inordinate delay that the Government has injected into this case. For these reasons, the fourth factor of the Article 10 procedural framework and the Sixth Amendment analysis also must be resolved in PFC Manning's favor.

## **5. Balancing the Factors**

379. Each factor in the Article 10 procedural framework and Sixth Amendment analysis points unwaveringly to the conclusion that the Government has violated PFC Manning's Article 10 and Sixth Amendment trial rights. The sheer length of delay – 845 days – makes this case stand apart from all other military cases. The reasons for delay, notwithstanding the Government's assertions to the contrary, are clear and damning. The Government has processed this entire case from beginning to end at a snail's pace. The classification review process inexplicably lagged for 566 days, causing the Government to delay the Article 32 hearing eight times. The Government's failure to understand its basic discovery obligations and how the discovery rules operate in a classified evidence for the first 698 days of this case is as unprecedented as it is inexcusable. Nothing the Government can offer can justify the 845 delay in bringing PFC Manning to trial. Additionally, PFC Manning made a genuine speedy trial demand early on in his confinement, renewed this demand once more, and reiterated these demands every time the Government sought to delay the proceedings further. Finally, PFC Manning has suffered substantial prejudice to all three prejudice interests. Therefore, taking all of the factors together, there can be no doubt that PFC Manning's Article 10 and Sixth Amendment speedy trial rights have been violated. Accordingly, this Court must dismiss all charges with prejudice. See *Kossman*, 38 M.J. at 262 (explaining that dismissal with prejudice is the only remedy for violation of an accused's Article 10 rights); R.C.M. 707(d)(1) ("The charges must be dismissed with prejudice where the accused has been deprived of his or her constitutional right to a speedy trial.").

## CONCLUSION

380. A military accused's right to speedy trial is fundamental. The Government's processing of this case makes an absolute mockery of that fundamental right. The mandate of R.C.M. 707(a) that an accused be arraigned within 120 days of the imposition of restraint has been technically

complied with in this case (if all of the Convening Authority's many exclusions are upheld) only because the Convening Authority abandoned any attempt to make an independent determination of the reasonableness of any Government delay request. Instead, the Convening Authority operated as a mere rubber stamp by granting all delay requests, which totaled 327 days, without being provided with or itself providing any reasons that justified the excluded delay as reasonable. Additionally, the Government's delay of the Article 32 hearing and its inexcusable failure to understand its basic discovery obligations have completely flouted the reasonable diligence standard of Article 10. If PFC Manning's right to speedy trial is indeed fundamental, there can be no doubt that the Government's tremendous lack of diligence in the processing of this case violated that fundamental right.

381. In *Kossmann*, Judge Wiss observed that "[t]here are no winners when criminal trials are unnecessarily delayed; all are losers." 38 M.J. at 266 (Wiss, J., dissenting). All have lost as a result of the Government's shameful and unjustifiable delay in this case. PFC Manning has lost. The United States Government has lost. The entire system of military justice has lost. There is only one adequate remedy for such a total loss: dismissal of all charges with prejudice.

382. For these reasons, the Defense requests this Court to dismiss all charges and specifications with prejudice because the Government has trampled upon PFC Manning's speedy trial rights.

Respectfully submitted,



DAVID EDWARD COOMBS  
Civilian Defense Counsel

## Speedy Trial Attachment 1

## CHRONOLOGY

27 May 2010 – PFC Manning was questioned by CID and placed in administrative hold by the Company Commander with escorts.

29 May 2010 – PFC Manning was placed into pretrial confinement.

30 May 2010 – PTC Review conducted.

31 May 2010 – PFC Manning transferred to Theater Field Confinement Facility (TFCF), Camp Arifjan, Kuwait.

31 May to 5 July 2010 - (No Apparent Government Activity 36 Days).

5 July 2010 - Original Charges Preferred.

6 July 2010 – Appointment of LTC Craig Merutka as the Article 32 Officer. Hearing set for 14 July 2010.

11 July 2010 – Defense requested a delay in the Article 32 hearing in order to conduct an R.C.M. 706 board. The Request was denied.

12 July 2010 – Defense renews request for delay of Article 32 hearing in order to conduct an R.C.M. 706 board. The Request is granted.

13 July – 30 July 2010 – (No Apparent Government Activity 17 Days)

29 July 2010 – Transferred from TFCF to Quantico, Virginia.

4 August 2010 – Appointment of LTC Paul Almanza as the new Article 32 Officer.

11 August 2010 – Defense requested a delay in the Article 32 hearing in order to conduct an R.C.M. 706 board.

12 August 2010 – Defense requested delay is approved. The Convening Authority, COL Carl R. Coffman Jr., states "period from 11 August 2010 until the R.C.M. 706 Sanitary Board completion is excludable defense delay."

25 August 2010 – Defense request for appointment of expert with expertise in forensic psychiatry to assist the Defense.

25 August 2010 – The Convening Authority, COL Carl R. Coffman Jr. excludes the period between 27 August 2010 and until the CGMCA takes action of the defense request for appointment of a forensic psychiatry expert consultant is excludable delay under R.C.M. 707(c).



26 August 2010 – Defense request for delay in R.C.M. 706 board to comply with prohibitions on disclosure of classified information.

3 September 2010 – Defense request for appropriate security clearances for Defense team and access for PFC Manning.

17 September 2010 – Preliminary Classification Review of Accused's Mental Impressions Order by COL Carl R. Coffman Jr.

18 September 2010 – Defense Response to the Preliminary Classification Review of Accused's Mental Impressions.

22 September 2010 – Superseding Order for Preliminary Classification Review of Accused's Mental Impressions.

12 October 2010 – The Convening Authority, COL Carl R. Coffman Jr. excludes the period from 12 July 2010 until 12 October 2010 as excludable delay under R.C.M. 707(c).

29 October 2010 – Defense makes its first discovery request.

10 November 2010 – The Convening Authority, COL Carl R. Coffman Jr. excludes the period from 12 October 2010 until 10 November as excludable delay under R.C.M. 707(c).

15 November 2010 – Defense makes its second discovery request.

8 December 2010 – Defense makes its third discovery request.

13 December 2010 – Results of Preliminary Classification Review provided to the Government.

17 December 2010 – The Convening Authority, COL Carl R. Coffman Jr. excludes the period from 10 November 2010 until 17 December 2010 as excludable delay under R.C.M. 707(c).

10 January 2011 – Defense makes its fourth discovery request.

13 January 2011 – Defense Request for Speedy Trial.

14 January 2011 – The Convening Authority, COL Carl R. Coffman Jr. excludes the period from 17 December 2010 until 14 January 2011 as excludable delay under R.C.M. 707(c). The Convening Authority acknowledged the Defense's request for Speedy Trial.

19 January 2011 – Defense makes its fifth discovery request.

15 February 2011 – The Convening Authority, COL Carl R. Coffman Jr. excludes the period from 14 January 2011 until 15 February 2011 as excludable delay under R.C.M. 707(c). The Convening Authority acknowledged the Defense's request for Speedy Trial.

16 February 2011 – Defense makes its sixth discovery request.

14 March 2011 – R.C.M. 706 Board Extension Request by the Board.

18 March 2011 – The Convening Authority, COL Carl R. Coffman Jr. approves of the R.C.M. 706 Board Extension Request and directs the Board to complete its work by 16 April 2011.

18 March 2011 – The Convening Authority, COL Carl R. Coffman Jr. excludes the period from 15 February 2011 until 18 March 2011 as excludable delay under R.C.M. 707(c). The Convening Authority acknowledged the Defense's request for Speedy Trial.

15 April 2011 – R.C.M. 706 Additional Extension Request by the Board.

20 April 2011 – PFC Manning transferred from Quantico to the Joint Regional Correctional Facility at Fort Leavenworth, Kansas.

22 April 2011 – The R.C.M. 706 Board submits its report.

22 April 2011 – The Convening Authority, COL Carl R. Coffman Jr. excludes the period from 18 March 2011 until 22 April 2011 as excludable delay under R.C.M. 707(c). The Convening Authority acknowledged the Defense's request for Speedy Trial.

25 April 2011 – Trial Counsel Request for Delay of Article 32 hearing until the Government receives consent from all of the Original Classification Authorities (OCAs) to release discoverable classified evidence and information to the Defense.

26 April 2011 – Defense opposition to the Government's excludable delay request and a request for the Convening Authority to direct either substitutions or summaries be provided to the Defense to avoid any delay in the Article 32.

23 April through 12 May 2011 – (No Apparent Government Activity 20 Days).

12 May 2011 – The Convening Authority, COL Carl R. Coffman Jr. excludes the period from 22 April 2011 until 12 May 2011 as excludable delay under R.C.M. 707(c). The Convening Authority acknowledged the Defense's request for Speedy Trial.

13 May 2011 – Defense makes its seventh discovery request.

22 May 2011 – Trial Counsel Request for Delay of Article 32 hearing until the Government receives the proper authority to release discoverable unclassified and classified

evidence and information to the defense. The Government also represented that the delay was needed to give the defense adequate time to prepare for the Article 32 investigation.

24 May 2011 – E-mail by the Defense opposing the excludable delay. The Defense repeated its position from the 26 April 2011 memorandum.

17 June 2011 – The Convening Authority, COL Carl R. Coffman Jr. excludes the period from 12 May 2011 until 17 June 2011 as excludable delay under R.C.M. 707(c). The Convening Authority acknowledged the Defense's request for Speedy Trial.

13 May through 17 June 2011 – (No Apparent Government Activity 36 Days).

27 June 2011 – Trial Counsel Request for Delay of Article 32 hearing until the Government receives the proper authority to release discoverable unclassified and classified evidence and information to the defense. The Government also represented that the delay was needed to give the defense adequate time to prepare for the Article 32 investigation.

29 June 2011 – E-mail by the Defense opposing the excludable delay. The Defense repeated its position from the 26 April 2011 memorandum.

5 July 2011 – The Convening Authority, COL Carl R. Coffman Jr. approves the Government's request for delay and excludes the period from 22 April 2011 until 27 July 2011 as excludable delay under R.C.M. 707(c).

18 June through 5 July 2011 – (No Apparent Government Activity 18 Days).

25 July 2011 – Trial Counsel Request for Delay of Article 32 hearing until the Government receives the proper authority to release discoverable unclassified and classified evidence and information to the defense. The Government also represented that the delay was needed to give the defense adequate time to prepare for the Article 32 investigation.

25 July 2011 – The Defense opposes the Government's delay and requests that any additional delay should be credited to the Government. The Defense renews its Speedy Trial demand and also makes a demand under Article 10. Finally, the Defense points out that the government has had over a year to obtain approval for the release of classified and unclassified information to the Defense.

26 July 2011 – The Convening Authority, COL Carl R. Coffman Jr. approves the Government's request for delay and excludes the period from 22 April 2011 until 27 August 2011 as excludable delay under R.C.M. 707(c).

6 July through 26 July 2011 – (No Apparent Government Activity 21 Days).

10 August 2011 – The Convening Authority, COL Carl R. Coffman Jr. excludes the period from 13 July 2011 until 10 August 2011 as excludable delay under R.C.M. 707(c). The

Convening Authority acknowledged the Defense's request for Speedy Trial dated 13 January 2011 and the Defense's renewed request for Speedy Trial dated 25 July 2011.

25 August 2011 – Trial Counsel Request for Delay of Article 32 hearing until the Government receives the proper authority to release discoverable unclassified and classified evidence and information to the defense. The Government also represented that the delay was needed to give the defense adequate time to prepare for the Article 32 investigation.

27 August 2011 – E-mail from the Defense objecting to the Government's request for excludable delay. The Defense requested that the delay should be credited to the Government for Speedy Trial and Article 10 purposes.

29 August 2011 – The Convening Authority, COL Carl R. Coffman Jr. approves the Government's request for delay and excludes the period from 22 April 2011 until 27 September 2011 as excludable delay under R.C.M. 707(c).

27 July through 29 August 2011 – (No Apparent Government Activity 34 Days).

21 September 2011 – Defense makes its eighth discovery request.

26 September 2011 – Trial Counsel Request for Delay of Article 32 hearing until the Government receives the proper authority to release discoverable unclassified and classified evidence and information to the defense. The Government also represented that the delay was needed to give the defense adequate time to prepare for the Article 32 investigation.

27 September 2011 – E-mail from the Defense objecting to the Government's request for excludable delay. The Defense requested that the delay should be credited to the Government for Speedy Trial and Article 10 purposes.

28 September 2011 – The Convening Authority, COL Carl R. Coffman Jr. approves the Government's request for delay and excludes the period from 22 April 2011 until 27 October 2011 as excludable delay under R.C.M. 707(c).

30 August through 28 September 2011 – (No Apparent Government Activity 30 Days).

13 October 2011 – Defense makes its ninth discovery request.

14 October 2011 – The Convening Authority, COL Carl R. Coffman Jr. excludes the period from 15 September 2011 until 14 October 2011 as excludable delay under R.C.M. 707(c). The Convening Authority acknowledged the Defense's request for Speedy Trial dated 13 January 2011 and the Defense's renewed request for Speedy Trial dated 25 July 2011.

24 October 2011 – The Government disclosed to the Defense the one page DISA classification review, which had been completed on 6 June 2011. The Government offered no explanation for the delay between completion of the classification review and disclosure.

25 October 2011 – Trial Counsel Request for Delay of Article 32 hearing until the Government receives the proper authority to release discoverable unclassified and classified evidence and information to the defense. The Government also represented that the delay was needed to give the defense adequate time to prepare for the Article 32 investigation.

25 October 2011 – E-mail from the Defense objecting to the Government's request for excludable delay. The Defense requested that the delay should be credited to the Government for Speedy Trial and Article 10 purposes.

27 October 2011 – The Convening Authority, COL Carl R. Coffman Jr. approves the Government's request for delay and excludes the period from 22 April 2011 until 28 November 2011 as excludable delay under R.C.M. 707(c).

29 September through 27 October 2011 – (No Apparent Government Activity 29 Days).

28 October through 15 November 2011 – (No Apparent Government Activity 19 Days).

4 November 2011 – The Government disclosed to the Defense the three-page Apache Video classification review, which was completed on 26 August 2010, and a 28-page Other Government Agency classification review. The Government offered no explanation for the delay between completion of the Apache Video classification review and its disclosure.

8 November 2011 – The Government disclosed to the Defense a three-page CENTCOM PowerPoint classification review that was completed on 21 February 2011, a 24-page CENTCOM classification review that was completed on 21 October 2011, a four-page CYBERCOM classification review that was completed on 21 July 2011, and a 51-page Department of State classification review that was completed on 30 October 2011. The Government offered no explanation for the delays between completion of the CENTCOM PowerPoint and CYBERCOM classification reviews and their disclosure.

15 November 2011 – Defense makes its tenth discovery request.

16 November 2011 – Defense makes its eleventh discovery request.

16 November 2011 – The Convening Authority, COL Carl R. Coffman Jr. excludes the period from 14 October 2011 until 16 November 2011 as excludable delay under R.C.M. 707(c). The Convening Authority acknowledged the Defense's request for Speedy Trial dated 13 January 2011 and the Defense's renewed request for Speedy Trial dated 25 July 2011.

16 November 2011 – Trial Counsel requests the Convening Authority to exclude the period between 16 November 2011 and 16 December 2011 as excludable delay under R.C.M. 707(c) in order for the Government to obtain the final classification review from an OCA and to provide the command with time to execute OPLAN BRAVO.

16 November 2011 – E-mail from the Defense objecting to the Government proposed start date and proposing an earlier date of 12 December 2011. The Defense also objected to any

delay being excluded under R.C.M. 707(c) and instead requested the time be counted against the Government for Speedy Trial and Article 10 purposes.

16 November 2011 – The Convening Authority, COL Carl R. Coffman Jr. approves the Government's request for delay and excludes the period from 22 April 2011 until 16 December 2011 as excludable delay under R.C.M. 707(c).

16 November 2011 – The Convening Authority, COL Carl R. Coffman Jr. provides special instructions to the Article 32 Investigating Officer.

17 November through 15 December 2011 – (No apparent Government Activity 29 days)

1 December 2011 – Defense makes motion to compel production of evidence at the Article 32 hearing.

16 December through 22 December 2011 – Article 32 hearing

23 December 2011 – 3 January 2012 – (No apparent Government Activity 12 days)

3 January 2012 – The Convening Authority, COL Carl R. Coffman Jr. excludes the period from 16 November 2011 until 15 December 2011 as excludable delay under R.C.M. 707(c). The Convening Authority acknowledged the Defense's request for Speedy Trial dated 13 January 2011 and the Defense's renewed request for Speedy Trial dated 25 July 2011.

3 January 2012 – E-mail from then CPT Fein to Article 32 Investigating Officer, LTC Paul Almanza, requesting that he exclude as reasonable delay anytime between 22 December 2011 and 3 January 2012 that he did not work on the Article 32 investigation based on the federal holidays and weekends.

4 January 2012 – E-mail from LTC Paul Almanza to CPT Fein stating that he will exclude as reasonable delay the days between 23 December 2011 and 3 January 2012 when he did not work on the Article 32 investigation.

11 January 2012 – LTC Paul Almanza submits his Article 32 report and recommendations.

12 January – 2 February 2012 – (No apparent Government Activity 22 days)

20 January 2012 – Defense makes its twelfth discovery request.

3 February 2012 – GCMCA refers the case

3 February 2012 – Electronic Docket Notification submitted by Trial Counsel requesting a trial date of 3 April 2012

6 February 2012 – Electronic Docket Notification submitted by Defense requesting a trial date of 30 April 2012 due to fellow defense counsel being in ILE and other conflicts.

8 February 2012 – Initial 802 Conference

16 February 2012 – Defense files its first motion to compel discovery.

23 February 2012 – Arraignment

15 -16 March 2012 – Article 39(a) Motions Hearing

22 March 2012 – Email sent by then-CPT Fein stating Government's position that R.C.M. 701 did not apply to classified evidence cases.

23 – 26 April 2012 – Article 39(a) Motions Hearing

23 April 2012 – Court ruling on Defense Motion to Dismiss All Charges, confirming Government had been operating under a misunderstanding of its discovery obligations and the relevant discovery rules.

10 May 2012 – Defense files its second motion to compel discovery.

6 – 8 June 2012 – Article 39(a) Motions Hearing

25 June 2012 – Court orders Government to provide it with a due diligence statement no later than 25 July 2012.

26 July 2012 – Government discloses 84 emails “obviously material to the preparation of the defense for Article 13 purposes” the night before the Defense Article 13 Motion was due. Government represents that the emails had been in its possession for six months, but that it had just begun its review of the emails the day before, 25 July 2012.

17 August 2012 – Defense files its third motion to compel discovery.

## Speedy Trial Attachment 2



ORIGINAL

CONFINEMENT ORDER				
1. PERSON TO BE CONFINED			2. DATE (YYYYMMDD)	
a. NAME (Last, First, Middle) MANNING, Bradley F.		b. SSN [REDACTED]		20100529
c. BRANCH OF SERVICE Army		d. GRADE E-3		
e. MILITARY ORGANIZATION (From): HHC, 2d BCT, 10th MTN DIV (LI), COS Hammer, Iraq, APO AE 09308				
TYPE OF CONFINEMENT				
3 a. PRE-TRIAL <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES		b. RESULT OF NJP <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES		
c. RESULT OF COURT MARTIAL: <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES				
TYPE: <input type="checkbox"/> SCM <input type="checkbox"/> SPCM <input type="checkbox"/> GCM <input type="checkbox"/> VACATED SUSPENSION				
d. ONA PROCESSING <input type="checkbox"/> IS <input checked="" type="checkbox"/> IS NOT REQUIRED UNDER 10 U.S.C. 1565.				
4. OFFENSES/CHARGES OF UCMJ ARTICLES VIOLATED: Article 128 Assault Consummated by a Battery; Article 134 (18 U.S.C. § 793: Wrongful Transmission of Defense Information)				
5. SENTENCE ADJUDGED:				b. ADJUDGED DATE (YYYYMMDD)
6. IF THE SENTENCE IS DEFERRED, THE DATE DEFERMENT IS TERMINATED:				
7. PERSON DIRECTING CONFINEMENT				
a. TYPED NAME, GRADE AND TITLE: MATTHEW W. FREEBURG CPT, AD, Commanding		b. SIGNATURE <i>Matthew W. Freeburg</i>		c. DATE (YYYYMMDD) 20100529
8 a. NAME, GRADE, TITLE OF LEGAL REVIEW AND APPROVAL CHRISTOPHER D. GOREN CPT, JA, Trial Counsel		b. SIGNATURE <i>Christopher D. Goren</i>		c. DATE (YYYYMMDD) 20100529
MEDICAL CERTIFICATE				
9a. The above named inmate was examined by me at <u>1735</u> on <u>20100529</u> and found to be <input checked="" type="checkbox"/> Fit <input type="checkbox"/> Unfit for confinement. I certify that from this examination the execution of the foregoing sentence to confinement <input type="checkbox"/> will <input checked="" type="checkbox"/> will not produce serious injury to the inmate's health.				
b. The following irregularities were noted during the examination (if none, so state):				
c. HIV Test administered on (YYYYMMDD): <u>200908 Aug 01</u>				
d. Pregnancy test administered on (YYYYMMDD): <u>N/A</u>				
10. EXAMINER				
a. TYPED NAME, GRADE AND TITLE: <b>CPT, MC, USA</b> <b>2d BCT Surgeon, 10th MTN D.</b>		b. SIGNATURE <i>E. Hill, CPT, MC</i>		c. DATE (YYYYMMDD) 20100529
d. TIME 1735				
11. a. THE INMATE NAMED ABOVE HAS BEEN RECEIVED FOR CONFINEMENT AT: <u>TPCF, CAMP ARIFIAN</u> (Facility Name and Location)				
ON <u>20100531</u> AT TIME: <u>1320</u> (Time)				
b. PERSON RECEIPTING FOR INMATE TYPED NAME, GRADE AND TITLE: FANT, PATRI CE E-6 PSB		c. SIGNATURE: <i>[Signature]</i>		d. DATE (YYYYMMDD) 20100531
e. TIME 1320				

DD FORM 2707, SEP 2005

PREVIOUS EDITION IS OBSOLETE.

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ORIGINAL

Speedy Trial Attachment 3



REPORT TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
HEADQUARTERS, 2D BRIGADE COMBAT TEAM  
10TH MOUNTAIN DIVISION (LIGHT INFANTRY)  
UNITED STATES DIVISION - CENTER  
COS HAMMER, IRAQ  
APO AE 61038

AFDR-43A

6 July 2010

MEMORANDUM FOR Lieutenant Colonel Craig Murtka

SUBJECT: Appointment as Article 32 Investigating Officer in the Case of United States v. Private First Class Bradley E. Manning

1. In coordination with USF-I OSA and Command, I appoint you as an investigating officer under the provisions of Article 32, Uniform Code of Military Justice (UCMJ) to investigate the attached charges against Private First Class Bradley E. Manning, Headquarters and Headquarters Company, 2d Brigade Combat Team, 10th Mountain Division (Light Infantry), APO AE 09308. This duty takes precedence over all other duties. Your duties are to:
  - a. Conduct a thorough and impartial investigation into the truth of the allegations.
  - b. Consider the correctness and the form of the charges; and
  - c. Make recommendations as to the disposition of the charges in the interest of justice and discipline.
2. Complete your investigation and report of investigation within 10 days from the date of this memorandum. You will schedule a time, date, and location for the hearing. You have the authority to grant reasonable requests by the attorneys to delay this investigation. If the Accused or the Accused's attorney cannot proceed on the selected date, obtain a request for delay from the Accused's counsel in writing and attach it to the report of investigation. I must approve delays in excess of 10 days.
3. Contact Captain Chad McFarland, Chief, Administrative Law Division, Office of the Staff Judge Advocate, 1st Armored Division and United States Division - Center (SVOHP 243-7871), for the name of your assigned legal advisor. You will not seek legal advice from any other attorney associated with the case.
4. Captain Mike Rose, Chief, Military Justice, 1st Armored Division and United States Division - Center, Captain Alison Atkins, Trial Counsel, 1st Armored Division, and United States Division - Center, and Captain Christopher Goren, Trial Counsel, 2d Brigade Combat Team, 10th Mountain Division (Light Infantry) are designated as the Government Representatives and are authorized to participate in this case. The Accused's counsels are Captain Paul Bouchard, Trial Defense Service, Camp Liberty Field Office, and Captain Michael Eaton, Trial Defense Service, Camp Victory Field Office. While either of these parties may call and question witnesses, the responsibility to conduct the investigation is yours. Both of these parties play an

AI DR-3BA

SI BJECH Appointment as Article 32 Investigating Officer in the Case of United States v. Private First Class Bradley E. Manning

adversarial role in the proceedings. You should not discuss the merits of the case with either party outside formal sessions where all parties have the opportunity to be present.

5. The 1st Armored Division and United States Division - Center Military Justice Office will provide your clerical support.
6. You should become familiar with the following reference materials/documents:
  - a. Article 32, UCMJ
  - b. ECM 405
  - c. Department of the Army Pamphlet 21-17, Procedural Guide for Article 32 Investigating Officer, 16 September 1990.
  - d. Department of Defense (DD) Form 458, Charge Sheet
7. The Investigating Officer's Procedural Guide discusses in detail procedural aspects from appointment to submission of the final report. Included in Appendix B is a sample format for notification of the Accused. You should modify the format by forwarding the notification through the Accused's unit commander to the Accused to ensure that the unit commander is aware of the time and location of the hearing, thereby ensuring the presence of the Accused at the hearing. If counsel already represents the Accused, you should send the written notice to that counsel and an information copy to the unit. You should also provide an information copy to the appropriate trial counsel.
8. A court reporter from 1st Armored Division and United States Division - Center will record and transcribe the testimony. Absent my written approval, the investigation will not be transcribed verbatim.
9. Submit the complete report of investigation, DD Form 457, Investigating Officer's Report, with enclosures, and a chronology of the investigation from receipt of file to submission of the report to the 1st Armored Division and United States Division - Center, Military Justice Office, no later than 10 days after you complete the investigation.



DAVID M. MILLER  
COL IN  
Commanding

## Speedy Trial Attachment 4



DEPARTMENT OF THE ARMY  
UNITED STATES ARMY TRIAL DEFENSE SERVICE  
CAMP LIBERTY FIELD OFFICE  
CAMP LIBERTY IRAQ



REPLY TO  
ATTENTION OF:

AFZD-TD

11 July 2010

MEMORANDUM THRU LTC Craig Merutka, Article 32 Investigation Officer, matter of US v. PFC Manning

FOR Convening Authority

SUBJECT: Request for delay in Article 32 hearing based on Defense request for a 706 board

1. The defense respectfully requests that the July 14<sup>th</sup> Article 32 investigative hearing in the matter of US v. PFC Bradley Manning be delayed for the following reason:

On 11 July 2010, at approximately 1600 hours, the defense requested the Government appoint and conduct a 706 board on PFC Manning. The defense is waiting to hear if such a request will be approved by the convening authority.

2. POC is the undersigned at DSN: 318-847-3047; SVO(P: 302-242-4726.

PAUL R. BOUCHARD  
CPT, JA  
Senior Defense Counsel

## Speedy Trial Attachment 5

UNCLASSIFIED DISCOVERY BRIEF OF THE COMPTON SYSTEMS  
US ARMY MEDICAL DISTRICT

1. PURPOSE AND SCOPE

2. REQUEST FOR INFORMATION

3. BACKGROUND

4. SUMMARY

5. DISCUSSION

6. CONCLUSIONS

7. REFERENCES

8. APPENDICES

9. FOOTNOTES

10. INDEX

11. GLOSSARY

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13. REFERENCES

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16. INDEX

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18. BIBLIOGRAPHY

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44. APPENDICES

45. FOOTNOTES

46. INDEX

47. GLOSSARY

48. BIBLIOGRAPHY

49. REFERENCES

50. APPENDICES




2. Is this a severe mental disease or defect affecting culpability?
3. What is the accused's prognosis for recovery?
4. Can this severe mental disease or defect be successfully controlled or treated with drugs?
5. What is the defendant's criminal responsibility?
6. What is the accused's intelligence level?
7. Does the accused have the mental capacity to understand the nature and consequences of his or her actions in the charges against him? (If not, please answer the following three questions.)
- a. What is the clinical psychiatric diagnosis using DSM-IV?
- b. Can this mental disease or defect be successfully treated with drugs? (If not, answer with "No.")
- c. What is the prognosis and expected time for recovery?
8. Does the accused have the mental capacity to assist in his or her defense? (If not, please answer the following three questions.)
- a. What is the clinical psychiatric diagnosis using DSM-IV?
- b. Can this mental disease or defect be successfully treated with drugs? (If not, answer with "No.")
- c. What is the prognosis and expected time for recovery?
9. In the case of the alleged criminal offense, did the accused have a severe mental disease or defect? If not, please answer the following four questions:
- a. What is the clinical psychiatric diagnosis using DSM-IV?
- b. Are the acts of the alleged criminal offense, and as a result of such severe mental disease or defect, the accused's appearance, behavior and quality of living to be pitied?
- c. Is this severe mental disease or defect, in any way, a product of crime or personality caused by inadequate training and development, lack of normal training or personality, or lack of adequate education, which differentiates them from other criminals who are not?
- d. Was this impairment complete?

g. The Jury Board should, at a minimum, consider each of the following materials in reaching their findings:

- a. The accused's mental health records.
- b. The accused's medical records.
- c. Interviews with the accused.
- d. The charge sheet and all related papers.

h. Upon completion of the inquiry, the Jury Board must comply with the disclosure provisions of M.U.R. 31(a), 302, and R.C.M. 706(c)(3). Only a statement consisting of the Jury Board's affirmative conclusions as to the questions in paragraph 3a through 3e will be provided to the trial counsel. A full version, which may include statements made by PFC Bradley Manning, or any evidence derived from such statements, should be provided to CPT Paul Blanchard at the Trial Defense Services Office at Camp Liberty, Iraq and/or CPT McArthur at the Trial Defense Services Office at Camp Victory, Iraq.

  
PAUL R. BLANCHARD  
CPT, USA  
Senior Defense Counsel

## Speedy Trial Attachment 6



DEPARTMENT OF THE ARMY  
UNITED STATES ARMY TRIAL DEFENSE SERVICE  
CAMP LIBERTY FIELD OFFICE  
CAMP LIBERTY IRAQ



REPLY TO:  
ATTENTION OF:

AFZD-TD

12 July 2010

MEMORANDUM THRU LTC Craig Merunka, Article 32 Investigation Officer, matter of US v. PFC Manning

FOR Convening Authority

SUBJECT: Request for delay in Article 32 hearing

1. The Defense respectfully requests that the July 14<sup>th</sup> Article 32 investigative hearing in the matter of US v. PFC Bradley Manning be delayed. This request is based on the following three reasons, all of which need to be met for a proper Article 32 hearing to take place:
  - a. An Article 32 hearing should not take place until a 706 evaluation is conducted on the accused to determine the important issues of mental responsibility and competency. The Article 32 hearing should not take place until the Defense receives the long version of the 706 board's findings and recommendations. (Note: the Defense has already requested a 706 evaluation be undertaken in this matter, and has received notice that the Government supports such a request. The Government has informed the Defense that a 706 board could be convened and undertaken in about two weeks);
  - b. An Article 32 hearing should not take place until the accused has decided whether he will obtain the services of a civilian counsel and whether such a civilian counsel is properly prepared for the Article 32 hearing. The Defense is currently researching this issue for the accused. The Defense believes that if the accused selects a civilian attorney, then that selection will take about two weeks to occur;
  - c. And an Article 32 hearing should not take place in this case until the Defense has an expert on computer forensics on its team and that the computer forensics expert has ample time to review the evidence which consists of five CD Rom disks. On behalf of the accused, the Defense will request CyberAgents, a company owned by Mr. Eric Lakes and based in Lexington, Kentucky, to be an expert assistant in this matter. The Defense is ready to submit its request for CyberAgents, but we are waiting to hear from Mr. Lakes to confirm his fee schedule. The Defense anticipates requesting Mr. Lakes within the next 24 hours. The Defense does not know and cannot predict how long it would take an expert like CyberAgents to review the evidence.
2. The Defense believes a tentative date for the Article 32 hearing of 20 August 2010 should be enough time for the three previously-mentioned conditions to be met.
3. The Defense reserves the right to request further delays upon showing good cause for such delay request(s).

ATZC-JA-TDS

4. POC is the undersigned at DSN: 318-847-3047, SVOIP: 302-242-4726.



PAUL R. BOUCHARD  
CPT, JA  
Senior Defense Counsel

Speedy Trial Attachment 7

IN A GENERAL COURT-MARTIAL OF THE UNITED STATES  
U.S. ARMY TRIAL JUDICIARY, FIFTH JUDICIAL CIRCUIT

UNITED STATES

BRADLEY MANNING  
PFC, U.S. ARMY

Headquarters and Headquarters Co. 2d BCT  
10<sup>th</sup> Mountain Division (Light Infantry)  
Contingency Operating Station Hammer, Iraq  
APO AE 99508

RENEWED REQUEST FOR  
SANITY BOARD  
AND REQUEST FOR  
MEDICAL EXPERT

18 July 2010

1. On 11 July 2010, the Defense, in the matter of US v. Manning, requested that a 706 Sanity Board be conducted on the accused. To date, the Defense has not been notified as to whether that request has been approved or denied.

2. As outlined in paragraph 4 below, the Defense renews its request to have a 706 Board evaluate the accused. Additionally, the Defense respectfully requests that a fourth medical expert with the proper medical qualifications be appointed to oversee the 3-member 706 board perform their evaluation. The Defense requests that this fourth medical expert be appointed as an assistant to the Defense team. Moreover, the Defense respectfully amends paragraph 5 – it was originally paragraph 3 – to read as follows:

That a board of three members be composed of: one forensic psychologist, one forensic psychiatrist, and one neuro psychiatrist.

3. Pursuant to R.C.M. 70b, Manual for Courts-Martial, the defense requests the Convening Authority appoint a sanity board to determine whether PFC BRADLEY MANNING was mentally responsible for the alleged offenses he is charged with and whether he is competent to stand trial.

4. In support of this request, the defense proffers the following:

PFC Manning has sought the assistance of military mental health professionals in the past. Specifically, on 22 May 2010, CPT Edgar Critchfield diagnosed PFC Manning with "adjustment disorder with mixed disturbances of emotions, conduct, chronic." (See attachment named CPT Critchfield's findings). Moreover, MSG Adkins, one of PFC Manning's high-ranking NCOs, has written three letters (their dates are 21 December 2009, and 26 April and 8 May of 2010) outlining his concerns as to PFC Manning's mental health status. Lastly and very importantly, PFC Manning is in pre-trial confinement in Kuwait, and the staff of the detention facility there has had to place PFC Manning on suicide watch in the past. Moreover, PFC Manning is currently taking a medication, as well.

Because of the aforementioned reasons, and out of an abundance of caution, the defense requests a 706 board to determine the extent of PFC Manning's mental health issues.

5. The defense requests that a board of three members consisting of a forensic psychologist, a forensic psychiatrist, and a neuro psychiatrist, be appointed to examine the accused.

6. The undersigned requests that the board address the following questions concerning PFC Manning's mental condition:

a. Does the accused currently have a severe mental disease or defect? If yes, please answer the following five questions:

(1) What is the clinical psychiatric diagnosis, using the American Psychiatric Association's Diagnostic and Statistical Manual IV (DSM IV)?

(2) Is this severe mental disease or defect service-disqualifying?

(3) What is the accused's prognosis for recovery?

(4) Can this severe mental disease or defect be successfully controlled by treatment with drugs?

(5) Does long-term commitment of the accused appear to be a necessary alternative?

b. What is the accused's intelligence level?

c. Does the accused have the mental capacity to understand the nature of the proceedings and the seriousness of the charges against him? If not, please answer the following three questions:

(1) What is the clinical psychiatric diagnosis, using DSM-IV?

(2) Can this mental disease or defect be successfully treated/controlled by treatment with drugs?

(3) What is the prognosis and expected time for recovery?

d. Does the accused have the mental capacity to cooperate intelligently in his own defense? If not, please answer the following three questions:

(1) What is the clinical psychiatric diagnosis, using DSM-IV?

(2) Can this mental disease or defect be successfully treated/controlled by treatment with drugs?

(3) What is the prognosis and expected time for recovery?



e. At the time of the alleged criminal conduct, did the accused have a severe mental disease or defect? If yes, please answer the following four questions:

(1) What is the clinical psychiatric diagnosis, using DSM-IV?

(2) At the time of the alleged criminal misconduct, and as a result of such severe mental disease or defect, was the accused able to appreciate the nature and quality or wrongfulness of his conduct?

(3) Is this severe mental disease or defect merely a defect of character or personality caused by inadequate training and development, lack of moral restraint, or a personal, social, or cultural standard of conduct which differs from that of society as a whole?

(4) Was this impairment complete?

7. The sanity board should, at a minimum, consider all of the following materials in reaching their findings:

- a. The accused's mental health records;
- b. The accused's medical records;
- c. Interviews with the accused;
- d. The charge sheet and all allied papers.

8. Upon conclusion of the inquiry, the sanity board must comply with the disclosure prohibitions of Mil. R. Evid. 302, and R.C.M. 706(c)(3). Only a statement consisting of the sanity board's ultimate conclusions as to the questions in paragraph 3a through 3e will be provided to the trial counsel. A full report, which may include statements made by PFC Bradley Manning, or any evidence derived from such statements, should be provided to CPT Paul Bouchard at the Trial Defense Services Office at Camp Liberty, Iraq and/or CPT Michael Eaton of the Trial Defense Services Office at Camp Victory, Iraq.



PAUL R. BOUCHARD  
CPT, JA  
Senior Defense Counsel

## Speedy Trial Attachment 8



U.S. ARMY  
JAGC  
JAGC  
JAGC

4 AUG 2011

(MID) (U) (Z)

ATTN: Mr. Albert C. Jager (SAR Center) 1010 1st Graphical Acquisition  
A.A. 27310

ST. BETA. Appointment as Investigating Officer under Article 32, UCMJ

1. You are appointed to investigate the enclosed charges and any other related matters concerning PFC Bradley Manning, xxx-xx-9594. He denies and Headquarters Company, 1st Army Cavalry Group, 1st Cavalry Division, Fort Meade, A.A. 27311.

2. You will conduct your investigation in accordance with Article 32, UCMJ and Paragraph 1 of the Manual (MCM) 101. You will also use DA Pamphlet 27-11 as a procedural guide in conducting your investigation. It is your primary duty to conduct the investigation as soon as possible.

3. You will consult with Mr. Michael Brown (201) 688-4932, Chief, Administrative Law Division, Office of the Staff Judge Advocate (OSJA), U.S. Army Military District of Washington (MIDW) before the hearing for advice on a procedure to permit completion of the report and evidence of having been made to the case. The Government representative and U.S. Army Third Detachment Service (TDS) will be each play a leadership role in the proceedings, and you must, therefore, avoid talking to either party about the merits of the case outside of the sessions where all parties have the opportunity to be present.

4. The accused is entitled to qualified legal counsel as a matter of right, unless he expressly waives this right. An officer assigned to the TDS will be detailed to defend the accused. A trial Counsel (TC) or the OSJA, MIDW, will represent the Government.

5. In your written statements cannot be considered as a basis for your conclusions and recommendations even objections by the accused. Even without an objection, you should take action to resolve the issue of evidence regarding the veracity of their statements, except when this would result in a necessary delay.

6. You will complete your investigation within ten days from the date of this memorandum. You will submit a report, date, and location for the hearing. You may have the authority to grant a 30-day extension to the accused to complete their investigation. If the accused or the accused's attorney cannot provide the selected date, submit a request for delay from the accused's counsel in writing and attach it to the report of investigation. I must approve delay in excess of ten days. All requests for delay must be in writing and will be either approved or disapproved in writing.

IBND:MH1 ZA

SUBJECT: Appointment as Investigating Officer under Article 32, UCMJ

7. Seven days after completion of the investigation, you will submit a completed report to me through the Military Justice Section, OSA, MDW. The completed report will include a summarized transcript of the Article 32 investigation. If you cannot submit the completed report within the specified time limits, notify me in writing with an explanation of the cause for delay.

8. The Military Justice Section, OSA, MDW will provide administrative support for this investigation. Sgt Sara Zimmerman will ensure that a suitable location and appropriate recording equipment are available. Contact Sgt Zimmerman at (202) 685-3260 or at sara.zimmerman@thepentagon.mil to coordinate administrative support.

cc: 1

CARL R. COFFMAN, JR.  
COL, AV  
Commanding

cc: 1 - OSA/MDW  
1 - OSA/MDW  
1 - OSA/MDW

## Speedy Trial Attachment 9



DEPARTMENT OF THE ARMY  
UNITED STATES ARMY TRIAL DEFENSE SERVICE  
DEFENSE COUNSEL ASSISTANCE PROGRAM  
ARLINGTON, VIRGINIA 22203



REPLY TO  
ATTENTION OF

JALS-TD

11 August 2010

MEMORANDUM THRU LTC Paul Almanza, 150th Judge Advocate General Detachment,  
Legal Support Organization, MG Albert C. Lieber USAR Center, 6901 Telegraph Road,  
Alexandria, Virginia 22310

FOR Commander, United States Army Garrison, Joint Base Myer-Henderson Hall, 204 Lee  
Avenue, Fort Myer, Virginia 22211-1199

SUBJECT: Delay Request, United States v. Private First Class Bradley Manning,  
Headquarters and Headquarters Company, U.S. Army Garrison, Joint Base Myer-Henderson  
Hall, Fort Myer, Virginia 22211

1. The Defense requests a delay in the subject court-martial until the inquiry you ordered under the provisions of Rule for Court-Martial 706 is completed. The defense maintains responsibility for this delay because Captain Paul Bouchard initially requested the inquiry from PFC Manning's previous chain of command. This delay would terminate on the date the results of the inquiry are received by PFC Manning's detailed defense counsel.
2. I am the point of contact for any questions or concerns regarding this request. I may be contacted at (703)696-8114 (office), (703)209-8061 (cellular phone), and [Thomas.F.Hurley@conus.army.mil](mailto:Thomas.F.Hurley@conus.army.mil) (email).

*Thomas F. Hurley*

THOMAS F. HURLEY  
MAJ, JA  
Defense Counsel

Speedy Trial Attachment 10

25 August 2010

MEMORANDUM THRU Staff Judge Advocate, Office of the Staff Judge Advocate, US Army Military District of Washington, Fort Lesley J. McNair, Washington D.C. 30219

FOR Commander, US Army Military District of Washington, Fort Lesley J. McNair, Washington D.C. 20319

SUBJECT: Request for Appointment of Expert with Expertise in Forensic Psychiatry to Assist the Defense in *United States v. PFC Bradley Manning*.

1. On 18 July 2010, the defense requested that a R.C.M. 706 sanity board be appointed in the case of *United States v. Manning*, and that a separate medical expert be appointed to the defense to observe the R.C.M. 706 board.
  2. On 25 August 2010, the defense received notification that a R.C.M. 706 board would begin its assessment of PFC Manning on 27 August 2010. The defense requests that the sanity board be delayed until a forensic psychiatrist can be appointed to the defense team. If the government has denied the former request, the defense hereby renews its request.
  3. Pursuant to R.C.M. 703(d), PFC Bradley Manning requests that a forensic psychiatrist from another branch of service be designated as a member of the defense team under Military Rule of Evidence M.R.E. 502 and *United States v. Toledo*, 25 M.J. 270 (CMA 1987). PFC Manning also requests that appropriate arrangements be made for the forensic psychiatrist to travel to Quantico, Virginia to evaluate and work with PFC Manning prior to the R.C.M. 706 board.
  4. A military accused has, as a matter of Equal Protection and Due Process, a right to expert assistance when necessary to present an adequate defense. *United States v. Garries*, 22 M.J. 288 (CMA 1986); *United States v. Robinson* 39 M.J. 88 (CMA 1994), and *Ake v. Oklahoma*, 470 U.S. 226 (1971). The Court of Appeals for the Armed Forces has embraced a three-part test for determining whether government-funded expert assistance is necessary. The defense must show: "First, why the expert assistance is needed. Second, what would the expert assistance accomplish for the accused. Third, why is the defense unable to gather the evidence that the expert assistant would be able to develop." *United States v. Gonzalez*, 39 M.J. 459 (1994).
  5. All of the above requirements for employment of an expert are present and the defense is entitled to have an expert appointed to the defense as a matter of law. The government has begun the process of conducting a sanity board on PFC Manning and is presumably using the best available Army doctors for this purpose. PFC Manning is only requesting a single forensic psychiatrist from another branch of service be appointed to the defense team to assist in understanding and preparing his defense.
- a. **Why Is Expert Assistance Needed?** Expert assistance is needed to assist the defense in understanding medical information concerning the mental status of PFC Manning on the date(s) of the alleged crimes, to determine whether he is able to understand the nature and quality of the



SUBJECT: Request for Appointment of Expert with Expertise in Forensic Psychiatry to Assist the Defense in *United States v. PFC Bradley Manning*.

wrongfulness of his conduct, to evaluate whether PFC Manning is able to intelligently assist in his defense, and to prepare a possible sentencing case in extenuation and mitigation for the accused. The knowledge required to do this is specialized, and concerns medical and psychiatric data which is beyond the scope of defense counsel's understanding.

**b. What Would the Expert Assistance accomplish for the Accused?** A forensic psychiatrist assigned to the defense would assist the defense by explaining complex medical terms and the psychology involved at the time of the alleged crimes. The expert would also administer tests which would aid in potential diagnosis and treatment. Finally, the expert would be able to explain medical research in the field of forensic psychiatry and its relevance to the present case.

**c. Why is the Defense Unable to Gather this Evidence on Its Own?** The defense has neither the experience nor expertise to adequately prepare this case. The defense counsel needs a basic understanding of psychiatry in order to present the defense case, including the need to prepare defense experts to testify. It would be impossible for the defense to properly prepare without having an individual who has the confidentiality guaranteed to protect the accused. As a member of the defense team, the defense appointed expert can freely discuss the defense theories of the case without fear of compromising PFC Manning's rights.

6. For the above reasons, the defense requests that you issue an order appointing a forensic psychiatrist from another branch of service as an expert; that you instruct him/her that he/she is a "defense representative" and thus part of the defense team, and that matters related to him/her during the course of his employment as a member of the defense team will be confidential. Finally the defense requests that you direct that the R.C.M. 706 board be delayed until the defense appointed forensic psychiatrist can be made available to monitor the examinations conducted by the members of the board. The defense believes that the presence of a member of the defense team will increase PFC Manning's willingness to cooperate with the sanity board. Moreover, it will ensure that the defense team has first-hand knowledge of the accuracy and quality of all examinations conducted by the members of the board. This will ultimately reduce the need for future litigation on such issues.

7. The POC is the undersigned at (401) 744-3007 or by e-mail at [coombs@armycourtmarshaldefense.com](mailto:coombs@armycourtmarshaldefense.com).

DAVID E. COOMBS  
Civilian Defense Counsel



DEPARTMENT OF THE ARMY  
JOINT BASE MEER, HENDERSON HALL  
704 LEE AVENUE  
FORT MEER VIRGINIA 22111-1100

11/10/2017, 11:24

ME. OSWALD. 401 E. 14. Paul. born 1918. Judge. 45 years. C. 1940. Det. 1942.  
 1943. 1944. 1945. 1946. 1947. 1948. 1949. 1950. 1951. 1952. 1953. 1954. 1955. 1956. 1957. 1958. 1959. 1960. 1961. 1962. 1963. 1964. 1965. 1966. 1967. 1968. 1969. 1970. 1971. 1972. 1973. 1974. 1975. 1976. 1977. 1978. 1979. 1980. 1981. 1982. 1983. 1984. 1985. 1986. 1987. 1988. 1989. 1990. 1991. 1992. 1993. 1994. 1995. 1996. 1997. 1998. 1999. 2000. 2001. 2002. 2003. 2004. 2005. 2006. 2007. 2008. 2009. 2010. 2011. 2012. 2013. 2014. 2015. 2016. 2017. 2018. 2019. 2020. 2021. 2022. 2023. 2024. 2025. 2026. 2027. 2028. 2029. 2030. 2031. 2032. 2033. 2034. 2035. 2036. 2037. 2038. 2039. 2040. 2041. 2042. 2043. 2044. 2045. 2046. 2047. 2048. 2049. 2050. 2051. 2052. 2053. 2054. 2055. 2056. 2057. 2058. 2059. 2060. 2061. 2062. 2063. 2064. 2065. 2066. 2067. 2068. 2069. 2070. 2071. 2072. 2073. 2074. 2075. 2076. 2077. 2078. 2079. 2080. 2081. 2082. 2083. 2084. 2085. 2086. 2087. 2088. 2089. 2090. 2091. 2092. 2093. 2094. 2095. 2096. 2097. 2098. 2099. 2100. 2101. 2102. 2103. 2104. 2105. 2106. 2107. 2108. 2109. 2110. 2111. 2112. 2113. 2114. 2115. 2116. 2117. 2118. 2119. 2120. 2121. 2122. 2123. 2124. 2125. 2126. 2127. 2128. 2129. 2130. 2131. 2132. 2133. 2134. 2135. 2136. 2137. 2138. 2139. 2140. 2141. 2142. 2143. 2144. 2145. 2146. 2147. 2148. 2149. 2150. 2151. 2152. 2153. 2154. 2155. 2156. 2157. 2158. 2159. 2160. 2161. 2162. 2163. 2164. 2165. 2166. 2167. 2168. 2169. 2170. 2171. 2172. 2173. 2174. 2175. 2176. 2177. 2178. 2179. 2180. 2181. 2182. 2183. 2184. 2185. 2186. 2187. 2188. 2189. 2190. 2191. 2192. 2193. 2194. 2195. 2196. 2197. 2198. 2199. 2200. 2201. 2202. 2203. 2204. 2205. 2206. 2207. 2208. 2209. 2210. 2211. 2212. 2213. 2214. 2215. 2216. 2217. 2218. 2219. 2220. 2221. 2222. 2223. 2224. 2225. 2226. 2227. 2228. 2229. 2230. 2231. 2232. 2233. 2234. 2235. 2236. 2237. 2238. 2239. 2240. 2241. 2242. 2243. 2244. 2245. 2246. 2247. 2248. 2249. 2250. 2251. 2252. 2253. 2254. 2255. 2256. 2257. 2258. 2259. 2260. 2261. 2262. 2263. 2264. 2265. 2266. 2267. 2268. 2269. 2270. 2271. 2272. 2273. 2274. 2275. 2276. 2277. 2278. 2279. 2280. 2281. 2282. 2283. 2284. 2285. 2286. 2287. 2288. 2289. 2290. 2291. 2292. 2293. 2294. 2295. 2296. 2297. 2298. 2299. 2300. 2301. 2302. 2303. 2304. 2305. 2306. 2307. 2308. 2309. 2310. 2311. 2312. 2313. 2314. 2315. 2316. 2317. 2318. 2319. 2320. 2321. 2322. 2323. 2324. 2325. 2326. 2327. 2328. 2329. 2330. 2331. 2332. 2333. 2334. 2335. 2336. 2337. 2338. 2339. 2340. 2341. 2342. 2343. 2344. 2345. 2346. 2347. 2348. 2349. 2350. 2351. 2352. 2353. 2354. 2355. 2356. 2357. 2358. 2359. 2360. 2361. 2362. 2363. 2364. 2365. 2366. 2367. 2368. 2369. 2370. 2371. 2372. 2373. 2374. 2375. 2376. 2377. 2378. 2379. 2380. 2381. 2382. 2383. 2384. 2385. 2386. 2387. 2388. 2389. 2390. 2391. 2392. 2393. 2394. 2395. 2396. 2397. 2398. 2399. 2400. 2401. 2402. 2403. 2404. 2405. 2406. 2407. 2408. 2409. 2410. 2411. 2412. 2413. 2414. 2415. 2416. 2417. 2418. 2419. 2420. 2421. 2422. 2423. 2424. 2425. 2426. 2427. 2428. 2429. 2430. 2431. 2432. 2433. 2434. 2435. 2436. 2437. 2438. 2439. 2440. 2441. 2442. 2443. 2444. 2445. 2446. 2447. 2448. 2449. 2450. 2451. 2452. 2453. 2454. 2455. 2456. 2457. 2458. 2459. 2460. 2461. 2462. 2463. 2464. 2465. 2466. 2467. 2468. 2469. 2470. 2471. 2472. 2473. 2474. 2475. 2476. 2477. 2478. 2479. 2480. 2481. 2482. 2483. 2484. 2485. 2486. 2487. 2488. 2489. 2490. 2491. 2492. 2493. 2494. 2495. 2496. 2497. 2498. 2499. 2500. 2501. 2502. 2503. 2504. 2505. 2506. 2507. 2508. 2509. 2510. 2511. 2512. 2513. 2514. 2515. 2516. 2517. 2518. 2519. 2520. 2521. 2522. 2523. 2524. 2525. 2526. 2527. 2528. 2529. 2530. 2531. 2532. 2533. 2534. 2535. 2536. 2537. 2538. 2539. 2540. 2541. 2542. 2543. 2544. 2545. 2546. 2547. 2548. 2549. 2550. 2551. 2552. 2553. 2554. 2555. 2556. 2557. 2558. 2559. 2560. 2561. 2562. 2563. 2564. 2565. 2566. 2567. 2568. 2569. 2570. 2571. 2572. 2573. 2574. 2575. 2576. 2577. 2578. 2579. 2580. 2581. 2582. 2583. 2584. 2585. 2586. 2587. 2588. 2589. 2590. 2591. 2592. 2593. 2594. 2595. 2596. 2597. 2598. 2599. 2600. 2601. 2602. 2603. 2604. 2605. 2606. 2607. 2608. 2609. 2610. 2611. 2612. 2613. 2614. 2615. 26

RECEIVED: 15 JULY 1988; REVISED: 15 SEPTEMBER 1988; ACCEPTED: 15 OCTOBER 1988.

**Abstract**  
 APL is a computer programming language designed for the manipulation of arrays. It is a high-level language, and its syntax is designed to be simple and intuitive. It is a powerful language, and it can be used to solve a wide variety of problems. It is a flexible language, and it can be adapted to a wide variety of applications. It is a language that is easy to learn and use, and it is a language that is worth learning and using.

## Speedy Trial Attachment 11



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
JOINT BASE MYER-HENDERSON HALL  
204 LEE AVENUE  
FORT MYER, VIRGINIA 22211-1159

25 AUG 2007

PMND-MHB-ZA

MEMORANDUM FOR Director, Forensic Psychology Fellowship, Walter Reed Army Medical Center, Washington, DC 20307

SUBJECT: Defense Delay Request of R.C.M. 706 Sanitary Board of PFC Bradley Manning

I reviewed the defense request to delay the R.C.M. 706 Sanitary Board for PFC Manning. The request is:

( ) approved. The Sanitary Board is delayed until the GCMCA takes action on the defense request for appointment of a forensic psychiatry expert consultant. The period between 27 August 2010 and until the GCMCA takes action on the defense request is excludable delay under R.C.M. 707(c).

( ) disapproved. The Sanitary Board will proceed as previously ordered.

CAROL COLEMAN, JR.  
CO-VA  
Commanding

## Speedy Trial Attachment 12

26 August 2010

MEMORANDUM THRU Staff Judge Advocate, Office of the Staff Judge Advocate, US Army Military District of Washington, Fort Lesley J. McNair, Washington D.C. 30219

FOR Commander, US Army Military District of Washington, Fort Lesley J. McNair, Washington D.C. 20319

SUBJECT: Request for Delay in the R.C.M. 706 Board to Comply with Prohibitions on Disclosure of Classified Information in *United States v. PFC Bradley Manning*.

1. Pursuant to Executive Order 12958, Section 4.1, defense counsel hereby requests the convening authority delay the R.C.M. 706 board until procedures can be adopted to safeguard any classified information that will be discussed during the board's determination.
2. In support of this request, the defense provides the following:
  - a. On 25 August 2010 defense counsel spoke with PFC Manning telephonically to determine if he would need to discuss classified information during the R.C.M. 706 board inquiry.
  - b. Based upon our discussions with PFC Manning, the defense counsel believes that in order for him to participate in the R.C.M. 706 process and aid the members in their determination of his mental state at the time of the alleged incidents, he will need to divulge classified information.
  - c. The information that PFC Manning will need to divulge will be Secret Sensitive Compartmented Information and Top Secret Sensitive Compartmented Information.
3. Based on the preceding information, the defense requests that the Government determine from the Original Classification Authority (OCA) that the R.C.M. 706 has a "need to know" as part of their assessment of PFC Manning's mental condition.
4. Additionally, pursuant to Executive Order 12958, 12968, and 13292 the defense requests that all members of the R.C.M. 706 board possess the requisite security clearances and that all required steps are taken in order to safeguard the information that they receive from PFC Manning.
5. Since board members notes and any recordings will contain references to classified information, the defense requests that the government appoint a security officer to the board to assist them in the proper handling of their notes and disposal of any information that may contain references to classified information.
6. The defense also requests the results of the government's classification review by the OCA. Specifically, the determination of the classification review regarding (1) the classification level of the information alleged to have been disclosed by PFC Manning when it was subjected to

SUBJECT: Request for Delay in the R.C.M. 706 Board to Comply with Prohibitions on Disclosure of Classified Information in *United States v. PFC Bradley Manning*.

compromise; (2) a determination whether another command requires review of the information; and (3) the general description of the impact of disclosure on affected operations.

7. Finally, the defense requests strict compliance with the disclosure prohibitions of Military Rules of Evidence 302 and R.C.M. 706. Specifically, the defense requests that the board members are informed of the restrictions on disclosure referenced in R.C.M. 706 (c)(5).

8. The POC is the undersigned at (401) 744-3007 or by e-mail at [coombs@armycourtartialdefense.com](mailto:coombs@armycourtartialdefense.com).

DAVID E. COOMBS  
Civilian Defense Counsel

## Speedy Trial Attachment 13



3 September 2010

MEMORANDUM THRU Staff Judge Advocate, Office of the Staff Judge Advocate. US Army Military District of Washington. Fort Lesley J. McNair, Washington D.C. 30219

FOR Commander, US Army Garrison, Joint Base Myer-Henderson Hall. Fort Myer, Virginia 22211

SUBJECT: Request for Appropriate Security Clearances for the Defense Team and Access for PFC Bradley Manning

1. The defense believes that in order to adequately represent our client, each member of the defense team will need a Top Secret – Sensitive Compartmented Information (TS-SCI) clearance. The defense team is currently comprised of the following counsel: Mr. David Coombs (MAJ(P) in the United States Army Reserves); MAJ Matthew J. Kemkes; CPT Paul R. Brouhard; and CPT Michael L. Eaton.
2. Access for each of the defense counsel is necessary in order for PFC Manning to receive due process and a fair trial. Denial of access would impede PFC Manning's defense and prevent full discussion concerning the case with our client. Therefore, expedited access is requested.
3. The defense also requests limited authorization for PFC Manning's access to classified information. It is likely that PFC Manning's access has been suspended due to the preferred charges. It is anticipated that the defense will need to discuss and share access to the classified information at issue in this case with our client. Therefore, the defense requested authorization for limited access to classified information by the accused in accordance with M.R.E. 505(d)(4).
4. The POC is the undersigned at (401) 744-3007 or by e-mail at [coombs@armycourtartialdefense.com](mailto:coombs@armycourtartialdefense.com).



DAVID E. COOMBS  
Civilian Defense Counsel

Speedy Trial Attachment 14



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
JOINT BASE MYER-HENDERSON HALL  
304 LEE AVENUE  
FORT MYER, VIRGINIA 22211-1199

IMND-MHH-ZA

22 September 2010

MEMORANDUM FOR Mr. David E. Coombs, Civilian Defense Counsel

SUBJECT: Preliminary Classification Review of the Accused's Mental Impressions - U.S. v. PFC Bradley Manning

1. According to your four requests, dated 25 August 2010, 26 August 2010, 3 September 2010 (Expert), and 3 September 2010 (Defense Team), the accused's mental impressions are potentially classified TS/SCI, which would require defense counsel, the RCM 706 board, and any defense expert to possess security clearances at the TS/SCI level, in order to allow the accused to fully participate in his defense and board.
2. **Order.** No later than 8 October 2010 and absent an extension by me, the accused is ordered to meet with your security expert consultant and disclose the classified information the accused wishes to discuss with you, the defense team, his detailed behavioral health providers, and the RCM 706 board. Your security expert will take notes and conduct a preliminary classification review of this information.
3. **Preliminary Classification Review.** No later than two weeks after the accused's final interview and absent an extension by me, the defense security expert consultant will conduct his preliminary classification review of the information and provide an unclassified written response to the following questions:
  - a. *Is the information provided by the accused classified at a level above Secret ("Yes" or "No")?*
  - b. *If any of the information provided by the accused is classified above Secret, does any of the information fall within SCI compartments, and if so, what compartments?*
4. Should the defense expert initially classify the disclosed information at a level above Secret, the United States will continue to work diligently to comply with your requests to have defense counsel, the defense expert, and the RCM 706 board fully cleared to discuss classified matters with the accused. I will also make a determination on whether to authorize the accused to disclose his classified information to the RCM 706 board and his behavioral health providers.
5. The notes from the defense security expert's meeting with the accused will remain privileged and be turned over to you at the conclusion of the preliminary review, subject to any security concerns that may be raised by the information. Under no circumstances should your security

IMND-MHH-ZA

SUBJECT: Preliminary Classification Review of the Accused's Mental Impressions - U.S. v.  
PFC Bradley Manning

expert consultant release any privileged or substantive information from the accused's disclosures to anyone outside of the defense team.

6. The sole purpose of this preliminary classification review is to provide the defense and United States with a basis for granting security clearances to the defense team and the accused's behavioral health providers, and determining the appropriate level of classification for the RCM 706 board. This preliminary classification review is not a substitute for an official classification review conducted by an original classification authority (OCA) or an official designated by an OCA.

7. This order supersedes my order dated 17 September 2010.

  
CARL R. COFFMAN, JR.  
COL, AV  
Commanding

Speedy Trial Attachment 15

28 September 2010

MEMORANDUM THRU: Staff Judge Advocate, Office of the Staff Judge Advocate, US Army  
Military District of Washington, Fort Lesley J. McNair, Washington D.C. 30219

FOR: Commander, US Army Garrison, Joint Base Myer-Henderson Hall, Fort Myer, Virginia  
22211

SUBJECT: Preliminary Classification Review of the Accused's Mental Impressions - *United States v. PFC Bradley Manning*

1. The defense has received your superseding preliminary classification order dated 22 September 2010. The defense has discussed this order with PFC Bradley Manning and with the defense appointed security expert, Mr. Charles Ganiel.

2. Based upon the defense's discussions with Mr. Ganiel, the preliminary classification review cannot be started until the following issues have been resolved:

a. Approved Facility: Mr. Ganiel does not believe that the Quantico Confinement Facility has the required area in order to speak to PFC Manning about any classified information. Specifically, for any Sensitive Compartmented Information (SCI), the discussion and storage of the information received must be in a facility that meets the structural and security requirements for a Sensitive Compartmented Information Facility (SCIF). SCI material cannot be viewed or discussed unless in a SCIF in accordance with DoD 5105-21-M-1, chapter 3, page 3-1, paragraph A(4). Therefore, unless Mr. Ganiel conducts his discussions with PFC Manning in an approved SCIF, he will not be able to begin his preliminary classification review.

b. Limited Access: It is likely that PFC Manning's access to classified information has been suspended due to the preferred charges. Mr. Ganiel will not be able to discuss or validate any classified information with PFC Manning unless PFC Manning is given an interim clearance. Additionally, PFC Manning will not have access to any secured sites, specifically a SCIF, unless he has the requisite security clearance. See DoD 5105-21-M-1.

c. Storage: Mr. Ganiel will need the government to provide him with a Government Service Administration (GSA) approved security container to store Secret and Confidential information. Additionally, Mr. Ganiel will need the same GSA approved security container with the requisite additional security precautions for the storage of Top Secret information in accordance with Army Regulation 380-5, chapter 7, paragraph 7-4. Finally, Mr. Ganiel will need to have access to a SCIF to store any Special Access Program (SAP) or SCI information in accordance with DoD 5105-21-M-1, chapter 3, page 3-19.

d. Verification: Anything revealed to Mr. Ganiel has to be verified before he can make a determination whether it is classified and, if necessary, its level of classification. This is a time consuming process that Mr. Ganiel does not believe can be completed within the time restrictions listed in the preliminary classification review order.

SUBJECT: Preliminary Classification Review of the Accused's Mental Impressions – *United States v. PFC Bradley Manning*

e. Additional Security Expert: Given the task required by the preliminary classification review order, Mr. Ganiel has requested that an additional security expert be appointed to the defense team. Mr. Ganiel believes that the additional expert will help expedite the process by assisting him in reviewing the information, conducting document verification, conducting document preparation, and by providing a second opinion regarding information that is either SCI or is part of a SAP.

3. The POC is the undersigned at (401) 744-3097 or by e-mail at [coombs@armycourtmartialdefense.com](mailto:coombs@armycourtmartialdefense.com)

  
JAVIER COOMBS  
Civilian Defense Counsel

Speedy Trial Attachment 16





DEPARTMENT OF THE ARMY  
JOINT BASE MYER-PENDERSON HALL  
204 LEE AVENUE  
FORT MYER, VIRGINIA 22204-5000

REF ID: A66886

IMND-MH1-ZA

MEMORANDUM FOR RECORD

SUBJECT: Accounting of Excludable Delay under Rule for Courts-Martial 707(c) - U.S.A.  
PFC Bradley Manning

1. **PURPOSE.** The purpose of this memorandum is to provide a periodic accounting for any excludable delay under Rule for Courts-Martial (RCM) 707(c) in the above-referenced matter.
2. **EXCLUDABLE DELAY.** The period from 12 July 2010 until the date of this memorandum is excludable delay under RCM 707(c).
3. **BASIS OF DELAY.** The above delay is based on the following defense requests, responses, and the facts and circumstances of this case:
  - a. Original Classification Authorities (OCA) reviews of classified information
  - b. Defense Request for Sanity Board, dated 11 July 2010 and Defense Renewed Request for Sanity Board, dated 18 July 2010 (enclosed).
  - c. Defense Request for Appointment of Expert with Expertise in Forensic Psychiatry to Assist the Defense, dated 25 August 2010 (enclosed).
  - d. Defense Request for Delay in the RCM 706 Board to Comply with Prohibitions on Disclosure of Classified Information, dated 26 August 2010 (enclosed).
  - e. Defense Request for Results of the Government's Classification Reviews by the OCA, dated 26 August 2010 (enclosed).
  - f. Defense Request for Appropriate Security Clearances for the Defense Team and Access for PFC Manning, dated 3 September 2010 (enclosed).
  - g. Preliminary Classification Review of the Accused's Mental Impressions, dated 17 September 2010 (enclosed), and Superseding Order, dated 22 September 2010 (enclosed)
  - h. Defense Response to the Preliminary Classification Review of the Accused's Mental Impressions, dated 28 September 2010 (enclosed).

IMND-MHH-ZA

Accounting of Excludable Delay under Rule for Courts-Martial 707(c) - U.S. v. PFC Bradley Manning

4. **PREVIOUS DELAYS.** This accounting of excludable delay is not intended to supersede any previous delays, but merely account for excludable delays from the previous accounting to the date of this memorandum.

Encls  
as



CARL R. COFFMAN, JR.  
COL, AV  
Commanding

CF: (w/encls)  
1-Trial Counsel  
1-Defense Counsel

## Speedy Trial Attachment 17



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
JOINT BASE MYER-HENDERSON HALL  
204 LEE AVENUE  
FORT MYER, VIRGINIA 22211-1199

10 NOV 2010

IMND-MHH-ZA

MEMORANDUM FOR RECORD

SUBJECT: Accounting of Excludable Delay under Rule for Courts-Martial 707(c) - U.S. v. PFC Bradley Manning

1. **PURPOSE.** The purpose of this memorandum is to provide a periodic accounting for any excludable delay under Rule for Courts-Martial (RCM) 707(c) in the above-referenced matter.
2. **EXCLUDABLE DELAY.** The period from 12 October 2010 until the date of this memorandum is excludable delay under RCM 707(c).
3. **BASIS OF DELAY.** The above delay is based on the following defense requests, responses, and the facts and circumstances of this case:
  - a. Original Classification Authorities (OCA) reviews of classified information
  - b. Defense Request for Sanity Board, dated 11 July 2010 and Defense Renewed Request for Sanity Board, dated 18 July 2010 (enclosed).
  - c. Defense Request for Delay in the RCM 706 Board to Comply with Prohibitions on Disclosure of Classified Information, dated 26 August 2010 (enclosed).
  - d. Defense Request for Results of the Government's Classification Reviews by the OCA, dated 26 August 2010 (enclosed).
  - e. Defense Request for Appropriate Security Clearances for the Defense Team and Access for PFC Manning, dated 3 September 2010 (enclosed).
  - f. Preliminary Classification Review of the Accused's Mental Impressions, dated 17 September 2010 (enclosed), and Superseding Order, dated 22 September 2010 (enclosed)
4. **PREVIOUS DELAYS.** This accounting of excludable delay is not intended to supersede any previous delays, but merely account for excludable delays from the previous accounting to the date of this memorandum.

Encls  
as

  
CARL R. COFFMAN, JR.  
COL, AV  
Commanding

CF: (wo/encls)  
1-Trial Counsel  
1-Defense Counsel

## Speedy Trial Attachment 18



DEPARTMENT OF THE ARMY  
UNITED STATES ARMY TEST AND EVALUATION COMMAND  
4120 SUSQUEHANNA AVENUE  
ABERDEEN PROVING GROUND, MD 21005-3103

13 December 2010

MEMORANDUM THRU Staff Judge Advocate, Office of the Staff Judge Advocate, US Army  
Military District of Washington, Fort Lesley J. McNair, Washington D.C. 20219

FOR Commander, US Army Garrison, Joint Base Myer-Henderson Hall, Fort Myer, Virginia  
22211

SUBJECT: Preliminary Classification Review of the Accused's Mental Impressions – *United States v. PFC Bradley Manning*

1. The defense security expert consultants have completed their preliminary classification review. Based upon your memorandum dated 22 September 2010, here are the unclassified written responses to your questions:


a) *Is the information provided by the accused classified at a level above Secret?*


**Answer: Yes.**

b) *If any of the information provided by the accused is classified above Secret, does any of the information fall within SCI compartments?* **Answer: Yes.**

c) *Which compartments?* **Answer: Gamma, HUMINT and SIGINT.**

2. The points of contact for this memorandum are the undersigned Mr. Charles J. Ganief (703) 681-0792 and Mr. Cassius N. Hall at (703) 428-4340

  
CHARLES J. GANIEF  
Command, SSO  
Army Test & Evaluation Command  
Alexandria, VA

  
CASSIUS N. HALL  
Information Security Division, G2  
Intelligence and Security Command  
Fort Belvoir, VA

## Speedy Trial Attachment 19



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
JOINT BASE MYER-HENDERSON HALL  
204 LEE AVENUE  
FORT MYER, VIRGINIA 22211-1199

17 DEC

IMND-MHHL-ZA

MEMORANDUM FOR RECORD

SUBJECT: Accounting of Excludable Delay under Rule for Courts-Martial 707(c) U.S. v. PFC Bradley Manning

1. **PURPOSE.** The purpose of this memorandum is to provide a periodic accounting for any excludable delay under Rule for Courts-Martial (RCM) 707(c) in the above-referenced matter.
2. **EXCLUDABLE DELAY.** The period from 19 November 2010 until the date of this memorandum is excludable delay under RCM 707(c).
3. **BASIS OF DELAY.** The above delay is based on the following defense requests, responses, and the facts and circumstances of this case.
  - a. Original Classification Authorities (OCA) reviews of classified information
  - b. Defense Request for Sanity Board, dated 11 July 2010 and Defense Renewed Request for Sanity Board, dated 18 July 2010 (enclosed)
  - c. Defense Request for Delay in the RCM 706 Board to Comply with Prohibitions on Disclosure of Classified Information, dated 26 August 2010 (enclosed)
  - d. Defense Request for Results of the Government's Classification Reviews by the OCA, dated 26 August 2010 (enclosed)
  - e. Defense Request for Appropriate Security Clearances for the Defense Team and Access for PFC Manning, dated 3 September 2010 (enclosed)
4. **PREVIOUS DELAYS.** This accounting of excludable delay is not intended to supersede any previous delays, but merely account for excludable delays from the previous accounting to the date of this memorandum.

Encls.  
325

  
CARL R. COFFMAN, JR.  
COL, AV  
Commanding

(1 -wp/encls)  
1-Trial Counsel  
1-Defense Counsel



Speedy Trial Attachment 20

13 January 2011

MEMORANDUM FOR: Staff Judge Advocate, Office of the Staff Judge Advocate, U.S. Army  
Military District of Washington, Fort Lesley J. McNair, Washington D.C. 20219

FOR: Commander, U.S. Army Garrison, Joint Base Myer-Henderson Hall, Fort Myer, Virginia  
22211

SUBJ: C1 - Request for Speedy Trial - *United States v. PFC Bradley Manning*

1. PFC Bradley Manning, through the below-signed counsel, requests the Sixth Amendment right to a speedy trial pursuant to Rule for Court-Martial (R.C.M.) 707 and Article 10 of the Uniform Code of Military Justice (UCMJ) (10 U.S.C. § 816).

2. Article 10 of the UCMJ, in pertinent part, states: "When any person subject to this chapter is placed in arrest or confinement prior to trial, immediate steps shall be taken to inform him of the specific wrong of which he is accused and to try him or to dismiss the charges and release him." PFC Manning has been in solitary pretrial confinement since 29 May 2010.

3. Pursuant to R.C.M. 905, the government must prove by a preponderance of the evidence that it exercised reasonable diligence in processing the case at all stages. *United States v. Tibbs*, 35 C.M.A. 750, 35 C.M.R. 322 (1965); *United States v. Birge*, 52 M.J. 299 (C.A.A.F. 1999); *United States v. Cooper*, 58 M.J. 54 (C.A.A.F., 2005).

4. The POC is the undersigned at (401) 744-3667 or by e-mail at [dcwebb@army.court.martiald.fense.com](mailto:dcwebb@army.court.martiald.fense.com)

  
DAVID L. COOMBS  
Civilian Defense Counsel

## Speedy Trial Attachment 21



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
JOINT BASE MYER-HENDERSON HALL  
204 LEE AVENUE  
FORT MYER, VIRGINIA 22211-1199

IMND MHILZA


14 JAN 2011

MEMORANDUM FOR RECORD

SUBJECT: Accounting of Excludable Delay under Rule for Courts-Martial 707(c) - U.S. v. PFC Bradley Manning

1. **PURPOSE.** The purpose of this memorandum is to provide a periodic accounting for any excludable delay under Rule for Courts-Martial (RCM) 707(c) in the above-referenced matter.
2. **EXCLUDABLE DELAY.** The period from 17 December 2010 until the date of this memorandum is excludable delay under RCM 707(c).
3. **BASIS OF DELAY.** The above delay is based on the following defense requests, responses, and the facts and circumstances of this case:
  - a. Original Classification Authorities (OCA) reviews of classified information.
  - b. Defense Request for Sanity Board, dated 11 July 2010 and Defense Renewed Request for Sanity Board, dated 18 July 2010 (enclosed).
  - c. Defense Request for Delay in the RCM 706 Board to Comply with Prohibitions on Disclosure of Classified Information, dated 26 August 2010 (enclosed).
  - d. Defense Request for Results of the Government's Classification Reviews by the OCA, dated 26 August 2010 (enclosed).
  - e. Defense Request for Appropriate Security Clearances for the Defense Team and Access for PFC Manning, dated 3 September 2010 (enclosed).
4. **PREVIOUS DELAYS.** This accounting of excludable delay is not intended to supersede any previous delays, but merely account for excludable delays from the previous accounting to the date of this memorandum.
5. I acknowledge and reviewed the defense request for speedy trial, dated 13 January 2011 (enclosed)

Encls  
as

  
CARL R. COFFMAN, JR.  
COL, AV  
Commanding

(C.F. (w/encs))  
1-Trial Counsel  
1-Defense Counsel

## Speedy Trial Attachment 22



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
JOINT BASE MYER-HENDERSON HALL  
204 LEE AVENUE  
FORT MYER, VIRGINIA 22211-1199

IMND-MHH-ZA

FEH

MEMORANDUM FOR Chief, Forensic Psychology, Walter Reed Army Medical Center,  
Washington, DC 20307 5001

SUBJECT: Order to Resume Conducting Sanity Board - PFC Bradley Manning

- 1. Background.** On 3 August 2010, I ordered a medical examination into the mental capacity and mental responsibility of PFC Bradley Manning, [REDACTED], Headquarters and Headquarters Company, U.S. Army Garrison, Fort Myer, Virginia, 22211. Prior to the board beginning their assessment, I received a request from defense counsel on 25 August 2010 to delay the board until an expert consultant in forensic psychiatry could be appointed to the defense team. I approved that defense delay request on the same day. On 26 August 2010, I received an additional defense request to delay the board until procedures could be adopted to have the board comply with disclosure prohibitions on classified information. I approved that delay and subsequently addressed defense concerns involving the disclosure of classified information during the board process.
- 2. Order.** I order your team to resume the medical examination into the mental capacity and mental responsibility of PFC Bradley Manning.
- 3. Reasons.** The reasons for my previous order were based on the information contained in the Defense Request for Sanity Board, dated 11 July 2010 and the Defense Renewed Request for Sanity Board, dated 18 July 2010. According to the defense request, PFC Manning had been diagnosed with adjustment disorder with mixed disturbances of emotions and conduct. The defense alleged that PFC Manning's leadership repeatedly expressed concerns about his mental health, and PFC Manning was placed on suicide watch while in pretrial confinement in Kuwait.
- 4. Composition of the Board.** In accordance with Rule for Courts-Martial (R.C.M.) 706(c), the board shall consist of one or more persons who are physicians or clinical psychologists. Defense requested that the board consist of three members, including at least one forensic psychiatrist, one forensic psychologist, and one neuropsychiatrist. You may, but are not required to comply with the defense request. At least one member of the board, however, shall be either a psychiatrist or a clinical psychologist. You will conduct the board and designate the appropriate personnel from within your staff to comprise all or part of the board.
- 5. Defense Request for Appointment of an Expert Consultant.** I appointed CAPT Kevin D. Moore as a defense expert consultant in forensic psychiatry and a member of the defense team under *U.S. v. Toledo*, 25 M.J. 270 (C.M.A. 1987) and Military Rule of Evidence 502. The defense requested this expert be permitted to evaluate and work with PFC Manning prior to the R.C.M. 706 board and that the expert be permitted to monitor the examinations conducted by

IMND-MHH-ZA

SUBJECT: Order to Resume Conducting Sanity Board - PFC Bradley Manning

members of the board. As such, I authorize the senior member of the board, in consultation with PFC Manning's primary behavioral health care provider, to address the defense requests and determine the extent to which the defense expert consultant may participate in the board's inquiry.

6. **Special Security Instructions.** The defense proffered that PFC Manning would likely need to divulge information potentially rising to the TS/SCI level in order to aid the members in their determination of his mental state at the time of the alleged incidents. The following special instructions apply to the portion of the board requiring discussion of classified information with PFC Manning

a. Each member of the board will be cleared up to the TS/SCI level and be read on to the following compartments: SI/TK/G/HCS. Until each member of the board is read-on, the board will not conduct the portion of the examination requiring discussions with PFC Manning.

b. Each member of the board has a "need-to-know" for the purposes of discussing classified information with PFC Manning during their inquiry. The only classified information available to the board is the mental impressions of PFC Manning.

c. Each member of the board will read and acknowledge the enclosed Protective Order no later than three duty days following the date of this memorandum.

d. The board will conduct all their examinations and testing in an unclassified environment, except the portion of the examination and testing requiring discussions with PFC Manning will occur in a Sensitive Compartmented Information Facility (SCIF). The board will organize their inquiry and examinations in a manner that minimizes the impact of delay due to issues arising from the disclosure of classified information by PFC Manning.

e. The board will notify the trial counsel no less than four duty days before conducting the portion of the board requiring interviews with PFC Manning. The trial counsel is responsible for identifying an appropriate SCIF for the discussion of classified information and providing adequate privacy for the board.

f. To the extent possible, the board will take and maintain only unclassified notes and transcriptions; however, any notes or transcriptions that must contain classified information or potentially classified information will be handled in accordance with applicable law, regulations, the Protective Order, and any specific security procedures your security officer delineates. A security officer will review all notes and transcripts to determine the proper classification.

g. I appointed Mr. Charles Ganiel and Mr. Cassius Hall as defense security expert consultants. Mr. Ganiel or Mr. Hall will also act as the security officer for the board and should be consulted when classified information issues arise. The security expert is directly responsible for storage and handling of all classified information, to include the board members' notes and any transcriptions. The security expert is not required to participate in the board proceedings.

but will be physically present at the location for on-site consultation, security inspections, and to assist with handling and storage of classified information.

h. All reports drafted and submitted by the board to the parties in this case will be unclassified. If a report must contain classified information, submit a written request to me, through the trial counsel.

7. **Required Findings.** The board is obligated in its evaluation to make separate and distinct findings as to 7a-7c (below), using diagnostic tools that the board, in its professional discretion, believes to be necessary and appropriate. In their request, defense counsel posed a number of specific requests for matters to be evaluated and specific tests to be conducted. You may, therefore, conduct the tests and answer the questions requested by the defense counsel in 7f 7k and 9 (below), but are not required to do so.

a. Does PFC Manning currently have a severe mental disease or defect? If the answer to "a" is yes, answer the following questions:

- (1) What is the clinical psychiatric diagnosis, using the American Psychiatric Association's Diagnostic and Statistical Manual IV (DSM IV)?
- (2) Is this severe mental disease or defect service disqualifying?
- (3) What is PFC Manning's prognosis for recovery?
- (4) Can this severe mental disease or defect be successfully controlled by treatment with drugs?
- (5) Does the long-term commitment of PFC Manning appear to be a necessary alternative?

b. Does PFC Manning have the mental capacity to understand the nature of the proceedings and the seriousness of the charges against him? If the answer to "b" is no, answer the following questions:

- (1) What is the clinical psychiatric diagnosis, using the DSM-IV?
- (2) Can this mental disease or defect be successfully treated/controlled by treatment with drugs?
- (3) What is the prognosis and expected time for recovery?

c. Does PFC Manning have the mental capacity to cooperate intelligently in his own defense? If the answer to "c" is no, answer the following questions:

- (1) What is the clinical psychiatric diagnosis, using the DSM-IV?



IMND-MHH ZA

SUBJECT: Order to Resume Conducting Sanity Board - PFC Bradley Manning

(2) Can this mental disease or defect be successfully treated/controlled by treatment with drugs?

(3) What is the prognosis and expected time for recovery?

d. At the time of the alleged criminal conduct, did PFC Manning have a severe mental disease or defect? If the answer to "d" is yes, answer the following four questions:

(1) What is the clinical psychiatric diagnosis, using the DSM-IV?

(2) At the time of the alleged criminal misconduct, and as a result of such severe mental disease or defect, was PFC Manning able to appreciate the nature and quality or wrongfulness of his conduct?

(3) Is this severe mental disease or defect merely a defect of character or personality caused by inadequate training and development, lack of moral restraint, or a personal, social, or cultural standard of conduct which differs from that of society as a whole?

(4) Was this impairment complete?

e. At the time of the alleged criminal misconduct, and as a result of such severe mental disease or defect, was PFC Manning able to appreciate the nature and quality or wrongfulness of his conduct? If the answer to "e" is yes, answer the following three questions.

(1) What is the clinical psychiatric diagnosis, using the DSM-IV?

(2) Is this severe mental disease or defect merely a defect of character or personality caused by inadequate training and development, lack of moral restraint, or a personal, social, or cultural standard of conduct, which differs from that of society as a whole?

(3) Was this impairment complete?

f. Was PFC Manning, at the time of the offense, able to formulate a specific intent to commit the alleged acts, to know the probable consequences of his actions, or to premeditate a design to commit the acts? If the answer to "f" is no, answer the following questions:

(1) What is the clinical psychiatric diagnosis, using the DSM-IV?

(2) What is the prognosis?

g. What personality type does PFC Manning possess?

h. What is the PFC Manning's intelligence level?

i. Does PFC Manning suffer from any mental condition that seriously interferes with his ability to think, respond emotionally, remember, communicate, interpret reality, and behave appropriately? If the answer to "i" is yes, answer the following questions:

(1) What is the clinical psychiatric diagnosis, using the DSM-IV?

(2) What is the prognosis?

j. Does PFC Manning have an organic brain/nervous system disorder or impairment that would impact his ability to think reason, perceive, recall, or in any way control his behavior or his thoughts? If the answer to "j" is yes, answer the following questions:

(1) What is the clinical psychiatric diagnosis, using the DSM-IV?

(2) What is the prognosis?

k. Does PFC Manning suffer from any level of Post Traumatic Stress Disorder? If the answer to "k" is yes, answer the following questions:

(1) What is the clinical psychiatric diagnosis, using the DSM-IV?

(2) What is the prognosis?

8. Consideration.

a. The sanity board should, at a minimum, consider all of the following materials in reaching their findings:

(1) The results of psychological and neurological tests, including raw psychological test data.

(2) PFC Manning's mental health records.

(3) PFC Manning's medical records.

(4) Interviews with PFC Manning.

(5) The charge sheet.

b. You may consider, at your professional discretion, any additional questions or matters posed by the defense if such matters are received no later than two weeks of the date of this memorandum.

9. In conjunction with the sanity board, you shall also complete a comprehensive neurological examination to include a CAT scan.

IMND-MHHI-ZA

SUBJECT: Order to Resume Conducting Sanity Board PFC Bradley Manning

10. **Movement for Appointments.** The board will notify the trial counsel no less than four duty days before any scheduled appointment for medical evaluation or testing, in order for the trial counsel to arrange adequate transportation and security.

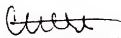
11. **Release of Report.** Upon conclusion of the inquiry, the sanity board must comply with the disclosure prohibitions of Military Rule of Evidence 302, and R.C.M. 706(c)(3) and the special security instructions in paragraph 6, above. Only a statement consisting of the sanity board's ultimate conclusions as to the questions in paragraph 7a through 7k will be provided to the trial counsel. A full report, which may include statements made by PFC Manning or any evidence derived from such statements, should be provided to PFC Manning's civilian and military defense counsel, Mr. David E. Coombs and MAJ Matthew Kemkes.

12. **Telephone Numbers.** CPT Ashden Fein is the government counsel. CPT Fein may be reached at (202) 685-4903. Information pertaining to PFC Manning can be obtained from his defense counsel, Mr. David E. Coombs, at 1-800-588-4156 or his military defense counsel, MAJ Kemkes, at 703-696-6700.

13. **Suspense.** This medical examination and your findings shall be completed no later than four weeks from the date of this memorandum. Any extension of time must be submitted through the trial counsel to me for approval.

5 Encls

1. Requests, 11 Jul 10, 18 Jul 10
2. Protective Order, 17 Sep 10
3. Protective Order Acknowledgment
4. Charge Sheet
5. Allied Documents

  
CARL R. COFFMAN, JR.  
COL., AV  
Commanding

Speedy Trial Attachment 23



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
JOINT BASE MYER-HENDERSON HALL  
204 LEE AVENUE  
FORT MYER, VIRGINIA 22211-1199

15 Feb 2011

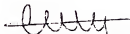
IMND-MHH-ZA

MEMORANDUM FOR RECORD

SUBJECT: Accounting of Excludable Delay under Rule for Courts-Martial 707(c) – U.S. v. PFC Bradley Manning

1. **PURPOSE.** The purpose of this memorandum is to provide a periodic accounting for any excludable delay under Rule for Courts-Martial (RCM) 707(c) in the above-referenced matter.
2. **EXCLUDABLE DELAY.** The period from 14 January 2011 until the date of this memorandum is excludable delay under RCM 707(c).
3. **BASIS OF DELAY.** The above delay is based on the following defense requests, responses, and the facts and circumstances of this case:
  - a. Original Classification Authorities (OCA) reviews of classified information.
  - b. Defense Request for Sanitary Board, dated 11 July 2010 and Defense Renewed Request for Sanitary Board, dated 18 July 2010 (enclosed). Completed 3 February 2011 (enclosed).
  - c. Defense Request for Delay in the RCM 706 Board to Comply with Prohibitions on Disclosure of Classified Information, dated 26 August 2010 (enclosed). Completed 31 January 2011.
  - d. Defense Request for Results of the Government's Classification Reviews by the OCA, dated 26 August 2010 (enclosed).
  - e. Defense Request for Appropriate Security Clearances for the Defense Team and Access for PFC Manning, dated 3 September 2010 (enclosed). Completed 3 February 2011.
4. **PREVIOUS DELAYS.** This accounting of excludable delay is not intended to supersede any previous delays, but merely account for excludable delays from the previous accounting to the date of this memorandum.
5. I acknowledge and reviewed the defense request for speedy trial, dated 13 January 2011 (enclosed).

Encls  
as

  
CARL R. COFFMAN, JR.  
COL., AV  
Commanding

CF: (wo/encls)  
1-Trial Counsel  
1-Defense Counsel

Speedy Trial Attachment 24



**DEPARTMENT OF THE ARMY**  
WALTER REED ARMY MEDICAL CENTER  
WALTER REED HEALTH CARE SYSTEM  
WASHINGTON, DC 20307-6001


MCHL-FPS

14 March 2011

MEMORANDUM FOR: CONVENING AUTHORITY, COL CARL R. COFFMAN, Jr.,  
JOINT BASE MYER-HENDERSON HALL, 204 LEE AVENUE, FORT MYER, VIRGINIA  
22211-1199

SUBJECT: Extension requested for Sanity Board - PFC Bradley Manning.

1. An extension is requested for completion of the RCM 706 Sanity Board in the case of PFC Bradley Manning. The original order asked that the report be completed by 3 March 2011.
2. The evaluators are coordinating suitable dates and times for the final evaluation session to take place. This involves multiple parties. Additionally, the final interview will take place at a SCIF and this has resulted in the consumption of extra time for this aspect of the evaluation to be coordinated. We anticipate that the final date for the evaluation should take place in the first ten days of April 2011 and are expecting that this will be confirmed today.
3. We are asking for three weeks from the date of the final interview to deliver the completed evaluation reports to the respective parties. Hence, we ask for a suspense date of Friday, 29 April 2011.
4. POC for this memorandum is Dr. Michael Sweda, WRAMC Psychology Department, Forensic Psychology Service, 202-782-0065,

  
MICHAEL SWEDA, PH. D, ABPP (Forensic)  
CHIEF, FORENSIC PSYCHOLOGY SERVICE  
Forensic Psychologist

Speedy Trial Attachment 25





REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
JOINT BASE MYER-HENDERSON HALL  
204 LEE AVENUE  
FORT MYER, VA 22211-1198

IMND-MIH-ZA

MEMORANDUM FOR Chief, Forensic Psychology, Walter Reed Army Medical Center,  
Washington, DC 20307-5001

SUBJECT: Extension Request for RCM 706 Sanity Board - U.S. v. PFC Bradley Manning

I have reviewed the request for an extension of the RCM 706 Sanity Board for PFC Manning. The request is:

☒ approved. The Sanity Board will be completed no later than 16 April 2011. Any other extension of time must be submitted through the trial counsel to me for approval.

☐ disapproved. The Sanity Board will proceed as previously ordered.

CARL R. COFFMAN, JR.  
COL, AV  
Commanding

CF: (wo/encls)  
1-Defense Counsel

Speedy Trial Attachment 26



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
JOINT BASE MYER-HENDERSON HALL  
204 LEE AVENUE  
FORT MYER, VIRGINIA 22211-1199

IMND-MHH-ZA

MEMORANDUM FOR RECORD

SUBJECT: Accounting of Excludable Delay under Rule for Courts-Martial 707(c) U.S.A.  
PFC Bradley Manning

1. **PURPOSE.** The purpose of this memorandum is to provide a periodic accounting for any excludable delay under Rule for Courts-Martial (RCM) 707(c) in the above-referenced matter.
2. **EXCLUDABLE DELAY.** The period from 15 February 2011 until the date of this memorandum is excludable delay under RCM 707(c).
3. **BASIS OF DELAY.** The above delay is based on the following extensions, defense requests, responses, and the facts and circumstances of this case:
  - a. Original Classification Authorities' (OCA) reviews of classified information.
  - b. OCA consent to disclose classified information.
  - c. Defense Request for Sanity Board, dated 11 July 2010 and Defense Renewed Request for Sanity Board, dated 18 July 2010 (enclosed).
  - d. Defense Request for Results of the Government's Classification Reviews by the OCA, dated 26 August 2010 (enclosed).
  - e. Defense Request for Appropriate Security Clearances for the Defense Team and Access for PFC Manning, dated 3 September 2010 (enclosed).
  - f. RCM 706 Sanity Board Extension Request, dated 14 March 2011 (enclosed)
4. **PREVIOUS DELAYS.** This accounting of excludable delay is not intended to supersede any previous delays, but merely account for excludable delays from the previous accounting to the date of this memorandum.
5. The previous memorandum, dated 15 February 2011, inaccurately reflected that the sanity board was completed on 3 February 2011. The sanity board is ongoing. The memorandum also inaccurately reflected that PFC Manning was granted access to classified information on 3 February 2011. To date, the various OCAs involved in this case have not granted PFC Manning access to classified information originating from their department or agency.

IMND-MHH-ZA

Accounting of Excludable Delay under Rule for Courts-Martial 707(c) – U.S. v. PFC Bradley Manning

6. I acknowledge and reviewed the defense request for speedy trial, dated 13 January 2011 (enclosed).

Encls

as



CARL R. COFFMAN, JR.

COL. AV

Commanding

CF: (wo/encls)

1-Trial Counsel

1-Defense Counsel

Speedy Trial Attachment 27



**DEPARTMENT OF THE ARMY**  
WALTER REED ARMY MEDICAL CENTER  
WALTER REED HEALTH CARE SYSTEM  
WASHINGTON, DC 20307-5001

MCHL-FPS

15 April 2011

MEMORANDUM FOR: CONVENING AUTHORITY, COL CARL R. COFFMAN, Jr.,  
JOINT BASE MYER-HENDERSON HALL, 204 LEE AVENUE, FORT MYER, VIRGINIA  
22211-1199

SUBJECT: Extension requested for Sanity Board - PFC Bradley Manning.

1. An extension is requested for completion of the RCM 706 Sanity Board in the case of PFC Bradley Manning. The current suspense is 16 April.
2. The final interview with SPC Manning was conducted on 9 April. The Board has been diligently working on completion of the long report. We are nearing finalization of the report, but have had limited availability to meet as a full board to discuss the report. This is because of conflicting schedules and demands of the three board members.
3. The board respectfully requests an extension of the suspense to COB on Friday, 22 April 2011 to allow full and adequate time to discuss and review all pertinent findings.

MICHAEL SWEDA, PH. D, ABPP (Forensic)  
CHIEF, FORENSIC PSYCHOLOGY SERVICE  
Forensic Psychologist



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
JOINT BASE MYER-HENDERSON HALL  
204 LEE AVENUE  
FORT MYER, VA 22211-1199

IMND-MHH-ZA

15 APRIL 2011

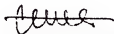
MEMORANDUM FOR Chief, Forensic Psychology, Walter Reed Army Medical Center,  
Washington, DC 20307-5001

SUBJECT: Extension Request for RCM 706 Sanity Board – U.S. v. PFC Bradley Manning

I have reviewed the request for an extension of the RCM 706 Sanity Board for PFC Manning. The request is:

☒ approved. The Sanity Board will be completed no later than 22 April 2011. Any other extension of time must be submitted through the trial counsel to me for approval.

☐ disapproved. The Sanity Board will proceed as previously ordered.

  
CARL R. COFFMAN, JR.  
COL, AV  
Commanding

CF: (wo/encls)  
1-Defense Counsel

Speedy Trial Attachment 28





**DEPARTMENT OF THE ARMY**  
**WALTER REED ARMY MEDICAL CENTER**  
**WALTER REED HEALTH CARE SYSTEM**  
**WASHINGTON, DC 20307-5001**

MCHL-FPS

22 April 2011

MEMORANDUM FOR CPT Ashden Fein, Trial Counsel, 210 A Street, Suite 300, Fort Lesley J. McNair, Washington, D.C. 20319 (202-685-4903).

**SUBJECT:** Sanity Board Evaluation of Bradley E. Manning, Private First Class (PFC), SSN [REDACTED]

1. In accordance with the order of the commander, a sanity board convened to inquire into the competency, mental responsibility, and psychiatric diagnosis of PFC Manning.
2. The Board reached the following answers to the specific questions of the order for the Board:
  - a. Does the accused currently have a severe mental disease or defect? If the answer to "a" is yes, answer the following questions:
    - 1) What is the clinical psychiatric diagnosis, using the American Psychiatric Association's Diagnostic and Statistical Manual-IV (DSM-IV)?
    - 2) Is this severe mental disease or defect service disqualifying?
    - 3) What is the accused's prognosis for recovery?
    - 4) Can this severe mental disease or defect be successfully controlled by treatment with drugs?
    - 5) Does the long-term commitment of the accused appear to be a necessary alternative?

**The Board replies:** No, PFC Manning does not currently have a severe mental disease or defect.

- b. Does the accused have the mental capacity to understand the nature of the proceedings and the seriousness of the charges against him? If the answer to "b" is no, answer the following questions:
  - 1) What is the clinical psychiatric diagnosis, using the DSM-IV?
  - 2) Can this mental disease or defect be successfully treated/controlled by treatment with drugs?
  - 3) What is the prognosis and expected time for recovery?

**The Board replies:** Yes, PFC Manning has the mental capacity to understand the nature of the proceedings and the seriousness of the charges against him.

- c. Does the accused have the mental capacity to cooperate intelligently in his own defense? If the answer to "c" is no, answer the following questions:

MCHL-FPS

SUBJECT: Sanity Board Evaluation of Bradley E. Manning, Private First Class (PFC), SSN [REDACTED]

- 1) What is the clinical psychiatric diagnosis, using the DSM-IV?
- 2) Can this mental disease or defect be successfully treated/controlled by treatment with drugs?
- 3) What is the prognosis and expected time for recovery?

**The Board replies: Yes, PFC Manning has the mental capacity to cooperate intelligently in his own defense.**

d. At the time of the alleged criminal conduct, did the accused have a severe mental disease or defect? If the answer to "d" is yes, answer the following four questions:

- 1) What is the clinical psychiatric diagnosis, using the DSM-IV?
- 2) At the time of the alleged criminal misconduct, and as a result of such severe mental disease or defect, was the accused able to appreciate the nature and quality or wrongfulness of his conduct?
- 3) Is this severe mental disease or defect merely a defect of character or personality caused by inadequate training and development, lack of moral restraint, or a personal, social, or cultural standard of conduct which differs from that of society as a whole?
- 4) Was this impairment complete?

**The Board replies: No, PFC Manning did not have a severe mental disease or defect at the time of the alleged criminal conduct.**

e. At the time of the alleged criminal misconduct, and as a result of such severe mental disease or defect, was the accused able to appreciate the nature and quality or wrongfulness of his conduct? If the answer to "e" is yes, answer the following three questions.

- 1) What is the clinical psychiatric diagnosis, using the DSM-IV?
- 2) Is this severe mental disease or defect merely a defect of character or personality caused by inadequate training and development, lack of moral restraint, or a personal, social, or cultural standard of conduct which differs from that of society as a whole?
- 3) Was this impairment complete?

**The Board replies: No, PFC Manning did not have a severe mental disease or defect at the time of the alleged criminal conduct that resulted in him being unable to appreciate the nature and quality or wrongfulness of his conduct.**

MCHL-FPS

SUBJECT: Sanity Board Evaluation of Bradley E. Manning, Private First Class (PFC), SSN  
[REDACTED]

3. Questions regarding this case can be directed to MAJ Benesh, Dr. Sweda, or LTC Hemphill at Walter Reed Army Medical Center, (202) 782-0065.



SAMANTHA M. BENESH, Psy.D.  
MAJ, MS, USA  
Forensic Psychology Fellow



For MARLA HEMPHILL, M.D.  
LTC, MC, USA  
Forensic Psychiatry Fellow



MICHAEL SWEDA, Ph.D., ABPP (Forensic)  
CHIEF, FORENSIC PSYCHOLOGY PROGRAM  
Forensic Psychologist

Speedy Trial Attachment 29



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
JOINT BASE MYER-HENDERSON HALL  
204 LEE AVENUE  
FORT MYER, VIRGINIA 22211-1199

IMND MHH-ZA

22 April 2011

MEMORANDUM FOR RECORD

SUBJECT Accounting of Excludable Delay under Rule for Courts-Martial 707(c) - U.S. v. PFC Bradley Manning

1. **PURPOSE.** The purpose of this memorandum is to provide a periodic accounting for any excludable delay under Rule for Courts-Martial (RCM) 707(c) in the above-referenced matter.
2. **EXCLUDABLE DELAY.** The period from 18 March 2011 until the date of this memorandum is excludable delay under RCM 707(c).
3. **BASIS OF DELAY.** The above delay is based on the following extensions, defense requests, responses, and the facts and circumstances of this case:
  - a. Original Classification Authorities' (OCA) reviews of classified information
  - b. OCA consent to disclose classified information.
  - c. Defense Request for Sanity Board, dated 11 July 2010 and Defense Renewed Request for Sanity Board, dated 18 July 2010 (enclosed)
  - d. Defense Request for Results of the Government's Classification Reviews by the OCA, dated 26 August 2010 (enclosed)
  - e. Defense Request for Appropriate Security Clearances for the Defense Team and Access for PFC Manning, dated 3 September 2010 (enclosed).
  - f. RCM 706 Sanity Board Extension Request, dated 14 March 2011 (enclosed)
  - g. RCM 706 Sanity Board Extension Request, dated 15 April 2011 (enclosed).
4. **PREVIOUS DELAYS.** This accounting of excludable delay is not intended to supersede any previous delays, but merely account for excludable delays from the previous accounting to the date of this memorandum.

IMND-MHH-ZA

Accounting of Excludable Delay under Rule for Courts-Martial 707(c) - U.S. v. PFC Bradley Manning

5. I acknowledge and reviewed the defense request for speedy trial, dated 13 January 2011 (enclosed).

Encls  
as

CARL R. COFFMAN, JR.  
COL, AV  
Commanding

CF: (w/encs)  
1-Trial Counsel  
1-Defense Counsel

Speedy Trial Attachment 30



REPLY TO  
ATTENTION OF  
ANJA-CL

**FOR OFFICIAL USE ONLY**

**DEPARTMENT OF THE ARMY**  
**U.S. ARMY MILITARY DISTRICT OF WASHINGTON**  
**210 A STREET**  
**FORT LESLEY J. MCNAIR, DC 20319-5013**

25 April 2011

MEMORANDUM FOR Commander, Joint Base Myer - Henderson Hall, 204 Lee Avenue, Fort Myer,  
VA 22211-1199

SUBJECT: Request for Delay of Article 32 Investigation – U.S.y. PFC Bradley V. Manning

1. **PURPOSE.** The prosecution in the above-referenced case requests you delay restarting the Article 32 Investigation until the United States receives consent from all the Original Classification Authorities (OCAs) to release discoverable classified evidence and information to the defense. This consent is necessary in order for the United States to fulfill its discovery obligations under Article 46, UCMJ and the Rules for Courts Martial (RCM), as well as for the defense to adequately prepare for the Article 32 Investigation.
2. **BACKGROUND.** Under Executive Orders 12958 and 13526 (as applicable) and Army Regulations 380-5 and 380-67, the United States cannot release classified information originating in a department or agency to parties outside of the executive branch without the consent of the OCA or their delegate. Since 17 June 2010, the United States has been diligently working with all of the departments and agencies that originally classified the information and evidence sought to be disclosed to the defense and the accused. Enclosed are redacted copies of the OCA Disclosure Requests and OCA Classification Review Requests without their enclosures, respectively. However, because of the special circumstances of this case, including the voluminous amounts of classified digital media containing multiple equities and the subsequent discovery of more information helpful to both the United States and the accused, more time is needed for executive branch departments and agencies to obtain the necessary consent from their OCA or authorizing official.
3. **EXCLUDABLE DELAY.** As the convening authority, you have the authority to grant a reasonable delay under the facts and circumstances of a particular case. Reasons to grant a delay include, for example, the need for time to complete other proceedings related to the case, or time to secure the availability of evidence.
4. **REQUEST.** The prosecution requests a reasonable delay of restarting the Article 32 Investigation until the earlier of the completion of the OCA Disclosure Requests and OCA Classification Reviews or 25 May 2011. For the reasons stated above, the United States requests the period between 22 April 2011 and 25 May 2011, or earlier, be designated as excludable delay under RCM 707(c). The prosecution will provide you an update no later than 25 May 2011.
5. The point of contact for this memorandum is the undersigned at (202) 685-1975.

Encls  
as

~~ASSTEN THIN~~  
CPT, IA  
Trial Counsel

CT  
Defense Counsel (w/encls)

**FOR OFFICIAL USE ONLY**



Speedy Trial Attachment 31

26 April 2011

MEMORANDUM FOR Commander, Joint Base Myer – Henderson Hall, 204 Lee Avenue, Fort Myer, VA 22211-1199

SUBJECT: Government Request for Delay of Article 32 Investigation, United States vs. PFC Bradley E. Manning

1. On 25 April 2011, the Government requested that you delay restarting the Article 32 Investigation until the United States received consent from all of the Original Classification Authorities (OCAs) to release discoverable classified evidence and information to the defense. It appears that no OCA has given such approval since the Defense has yet to receive any classified evidence or information. Without this information, the Defense is unable to adequately prepare for the Article 32.

2. In order to avoid any additional unnecessary delay, the Defense requests that you order the Government to:

a. Provide either a substitute for or a summary of the information for relevant classified documents;

b. Allow the Defense to inspect any and all unclassified documents, tangible items, and reports within the Government's control, which are material to the Defense's preparation. Rule for Court-Martial (R.C.M.) 405(g)(1)(A), (g)(1)(B), and 701(a). The standard set out in R.C.M. 405 and R.C.M. 701 requires the Government to turn over items that are within the "Government's control." This means that the Trial Counsel, upon Defense request, has an **affirmative obligation** to seek out requested evidence that is in the possession of the Government even if that evidence is not already in the immediate possession of the Trial Counsel. *United States v. Williams*, 50 M.J. 436, 441 (C.A.A.F. 1999). The "prosecutor will be deemed to have knowledge of and access to anything in the possession, custody, or control of any federal agency participating in the same investigation of the defendant." *United States v. Brynn*, 868 F.2d 1032, 1036 (9<sup>th</sup> Cir. 1989); *Williams*, 50 M.J. at 441. The Defense specifically renews its request for discovery previously either denied or not provided by the Government. See Attachment A – F; AND

c. Ensure the Defense has equal access to CID and other law enforcement witnesses by requiring the Trial Counsel to make available any requested witness. R.C.M. 405(g)(1)(B) and 703(a) establishes that the prosecution and defense "shall have equal opportunity to obtain witnesses and evidence." See also Article 46, UCMJ. The Defense has attempted to interview several of the CID agents in this case. On 14 April 2011, the Defense received an email from Deputy Director Daniel T. Andrews of the Computer Crime Investigative Unit, requesting that the Defense coordinate all witness interview requests through MDW Trial Counsel. Specifically, the Defense requests the ability to speak with SA Toni M. Graham, SA Thomas A. Smith, SA Kenneth A. King, SA Charles T. Ames Jr., SA Mark A. Mander, SA Randall A. Bethke, SA


SUBJECT: Government Request for Delay of Article 32 Investigation, United States vs. PLC  
Bradley E. Manning

Matthew J. Haywood, SA Jennie R. Piscicandri, CW2 Nathan F. Langley, SA Calder L.  
Robertson, III, SA David S. Shaver, and SA Ronald Rock

3. Due to the limited discovery provided to far, it is likely that the Article 32 will need to be  
delayed again unless the above information is provided in a timely manner. The Defense  
requests that any additional delay be credited to the Government.

4. The point of contact for this memorandum is the undersigned at (401) 744-3007.

Encls  
As



DAVID EDWARD COOMBS  
Civilian Defense Counsel

## Speedy Trial Attachment 32



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
JOINT BASE MYER-HENDERSON HALL  
304 LEE AVENUE  
FORT MYER, VIRGINIA 22211-1199

IMND-MHH-ZA

MEMORANDUM FOR RECORD

SUBJECT: Accounting of Excludable Delay under Rule for Courts-Martial 707(c) U.S. v. PFC Bridges  
E. Manning

1. **PURPOSE.** The purpose of this one memorandum is to provide a periodic accounting for any excludable delay under Rule for Courts-Martial (RCM) 707(c) in the above-referenced matter.

2. **EXCLUDABLE DELAY.** The period from 22 April 2011 until the date of this memorandum is excludable delay under RCM 707(c).

3. **BASIS OF DELAY.** The above delay is based on the following extensions, defense requests, responses, and the facts and circumstances of this case:

- a. Original Classification Authorities' (OCA) reviews of classified information.
- b. OCA consent to declassify classified information.
- c. Defense Request for Results of the Government's Classification Reviews by the OCA, dated 126 August 2010 (enclosed).
- d. Defense Request for Appropriate Security Clearances for the Defense Team and Access for PFC Manning, dated 3 September 2010 (enclosed).
- e. Government Request for Delay of Article 32 Investigation, dated 25 April 2011 (enclosed).

4. **PREVIOUS DELAYS.** This accounting of excludable delay is not intended to supersede any previous delays, but merely account for excludable delays from the previous accounting to the date of this memorandum.

5. I acknowledge and reviewed the defense request for speedy trial, dated 13 January 2011 (enclosed).

Encls  
to

CARL R. H. EVANS  
COL, AV  
Commanding

CF (twoencls)  
1. Trial Counsel  
1. Defense Counsel

## Speedy Trial Attachment 33



REPLY TO  
ATTENTION OF

FOR OFFICIAL USE ONLY

DEPARTMENT OF THE ARMY  
U.S. ARMY MILITARY DISTRICT OF WASHINGTON  
210 A STREET  
FORT LESLEY J. MCNAIR, DC 20319-5013

ANJACI

22 May 2011

MEMORANDUM FOR Commander, Joint Base Myer - Henderson Hall, 204 Lee Avenue, Fort Myer,  
VA 22211-1199

SUBJECT: Request for Delay of Article 32 Investigation - U.S. v. PFC Bradley L. Manning

1. **PURPOSE.** The prosecution in the above-referenced case requests you continue to delay restarting the Article 32 investigation until the United States receives the proper authority to release discoverable unclassified and classified evidence and information to the defense. This consent is necessary in order for the United States to fulfill its discovery obligations under Article 46, UCMJ and the Rules for Courts-Martial (RCM), as well as for the defense to adequately prepare for the Article 32 investigation.

2. **UPDATE.** The prosecution is continuing to work with relevant Original Classification Authorities (OCAs) to obtain consent to disclose classified evidence and information to the defense along with receiving completed classification reviews. In anticipation of OCA consent, CID began making copies of classified digital media and evidence for disclosure to the defense. Additionally, the prosecution learned that several exhibits and documents in the unclassified CID case file require authorization to disclose apart from any classified information. The U.S. Attorney's Office for the Eastern District of Virginia is working to obtain that authorization on behalf of the prosecution from multiple federal districts within the United States.

3. **EXCLUDABLE DELAY.** As the convening authority, you have the authority to grant a reasonable delay under the facts and circumstances of a particular case. Reasons to grant a delay include, for example, the need for time to complete other proceedings related to the case, or time to secure the availability of evidence.

4. **REQUEST.** The prosecution requests a reasonable delay of restarting the Article 32 investigation until the earlier of the completion of the OCA Disclosure Requests, OCA Classification Reviews, and authorization to disclose protected unclassified information or 27 June 2011. For the reasons stated above, the United States requests the period between 22 April 2011 and the restart of the Article 32 investigation be designated as excludable delay under RCM 707(c). The prosecution will provide you an update no later than 25 June 2011.

5. The point of contact for this memorandum is the undersigned at (202) 685-1975.

ASHLEIGH L. HIN  
CPT, JA  
Trial Counsel

CF  
Defense Counsel

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Speedy Trial Attachment 34



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Subject: RE: US v. PFC BM (Art 32 Delay Request) (UNCLASSIFIED)

From: coombs@armycourt martialdefense.com

Date: Tue, May 24, 2011 8:45 pm

To: "COFFMAN, CARL R COL MIL USA IMCOM" <carl.coffman@us.army.mil>  
"Matthew kemkes" <matthew.kemkes@us.army.mil>, "Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA" <JoDean.Morrow@jfhqncr.northcom.mil>, "Bouchard, Paul CPT USCENTCOM USF-I USCENTCOM-TDS/FICI-JA-TBO" <paul.bouchard@iraq.centcom.mil>, "Haberland, John CPT MIL USA" <john.haberland@us.army.mil>, "Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA" <Angel.Overgaard@jfhqncr.northcom.mil>, "Ford, Arthur D. WO1 USA JFHQ-NCR/MDW SJA" <Arthur.Ford@jfhqncr.northcom.mil>, "Fein, Ashden CPT USA JFHQ-NCR/MDW SJA" <Ashden.Fein@jfhqncr.northcom.mil>, "Joshua Tooman" <joshua.tooman@us.army.mil>

Sir,

The defense maintains its position as stated in the 26 April 2011 memorandum.

Given the limited discovery provided so far, it is likely that the Article 32 will need to be delayed in order to provide the defense with the ability to adequately prepare. The defense requests that any additional delay be credited to the government.

v/r

David

David E. Coombs, Esq.  
Law Office of David E. Coombs  
11 South Angell Street, #317  
Providence, RI 02906  
Office: 1-800-588-4156  
Fax: (508) 689-9282  
[coombs@armycourt martialdefense.com](mailto:coombs@armycourt martialdefense.com)  
[www.armycourt martialdefense.com](http://www.armycourt martialdefense.com)

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----- Original Message -----

Subject: Re: US v. PFC BM (Art 32 Delay Request) (UNCLASSIFIED)

From: "COFFMAN, CARL R COL MIL USA IMCOM"

<carl.coffman@us.army.mil>;

Date: Tue, May 24, 2011 4:57 pm

To: "Fein, Ashden CPT USA JFHQ-NCR/MDW SJA"

<Ashden.Fein@jfhqncr.northcom.mil>

Cc: coombs@armycourt martialdefense.com, Matthew kemkes

<matthew.kemkes@us.army.mil>; "Morrow III, JoDean, CPT USA

JFHQ-NCR/MDW

SJA" <JoDean.Morrow@jfhqncr.northcom.mil>; "Bouchard, Paul CPT

USCENTCOM

USF-I USCENTCOM-TDS/FICI-JA-TBO"

<paul.bouchard@iraq.centcom.mil>; "Haberland, John CPT MIL USA"

<john.haberland@us.army.mil>, "Overgaard, Angel M. CPT USA JFHQ-

NCR/MDW

SJA" <Angel.Overgaard@jfhqncr.northcom.mil>, "Ford, Arthur D. WO1

USA

JFHQ-NCR/MDW SJA" <Arthur.Ford@jfhqncr.northcom.mil>;

Classification: UNCLASSIFIED

Mr. Coombs,

Please provide me any comments you may have by COB 25 May 2011.

COL Coffman, Carl

On 05/23/11, "Fein, Ashden CPT USA JFHQ-NCR/MDW SJA"

<Ashden.Fein@jfhqncr.northcom.mil> wrote:

> Sir,

>

> The United States requests an additional delay of the Article 32.

Please see

> the attached request.

>

> v/r

> CPT Fein

>

>

>

> Ashden Fein

> CPT, JA

Classification: UNCLASSIFIED

Speedy Trial Attachment 35



OFFICE OF  
ATTENTION OF

DEPARTMENT OF THE ARMY  
JOINT BASE MYER-HENDERSON HALL  
204 LEE AVENUE  
FORT MYER, VIRGINIA 22211 1159

IMND MHH ZA

000000


MEMORANDUM FOR RECORD

SUBJECT: Accounting of Excludable Delay under Rule for Courts-Martial 707(c) U.S. v. PFC Bradley E. Manning

1. **PURPOSE.** The purpose of this memorandum is to provide a periodic accounting for any excludable delay under Rule for Courts-Martial (RCM) 707(c) in the above referenced matter.
2. **EXCLUDABLE DELAY.** The period from 12 May 2011 until the date of this memorandum is excludable delay under RCM 707(c).
3. **BASIS OF DELAY.** The above delay is based on the following extensions, defense requests, responses, and the facts and circumstances of this case:
  - a. Original Classification Authorities' (OCA) reviews of classified information.
  - b. OCA consent to disclose classified information.
  - c. Defense Request for Results of the Government's Classification Reviews by the OCA, dated 26 August 2010 (enclosed).
  - d. Defense Request for Appropriate Security Clearances for the Defense Team and Access for PFC Manning, dated 3 September 2010 (enclosed).
  - e. Government Request for Delay of Article 32 Investigation, dated 22 May 2011 (enclosed).
4. **PREVIOUS DELAYS.** This accounting of excludable delay is not intended to supersede any previous delays, but merely account for excludable delays from the previous accounting to the date of this memorandum.
5. I acknowledge and reviewed the defense request for speedy trial, dated 13 January 2011 (enclosed).

Encls  
as

CE: two encls  
1-Trial Counsel  
1-Defense Counsel

  
CARL R. COFFMAN, JR.  
COL, AV  
Commanding

Speedy Trial Attachment 36

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REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
U.S. ARMY MILITARY DISTRICT OF WASHINGTON  
210 A STREET  
FORT LESLEY J. MCNAIR, DC 20319-5013

ANJA-CL

27 June 2011

MEMORANDUM FOR Commander, Joint Base Myer Henderson Hall, 204 Lee Avenue, Fort Myer, VA 22211-1199

SUBJECT: Request for Delay of Article 32 Investigation United States v. PFC Bradley E. Manning

1. **PURPOSE.** The prosecution in the above-referenced case requests you continue to delay restarting the Article 32 investigation until the United States receives the proper authority to release discoverable unclassified and classified evidence and information to the defense. This consent is necessary in order for the United States to fulfill its discovery obligations under Article 46, UCMJ and the Rules for Courts-Martial (RCM), as well as for the defense to adequately prepare for the Article 32 investigation.

2. **UPDATE.**

a. The prosecution is continuing to work with relevant Original Classification Authorities (OCAs) to obtain consent to disclose classified evidence and information to the defense along with receiving completed classification reviews. This includes the enclosed additional requests forwarded by the prosecution on 23 June 2011, after forensic examiners discovered another document on digital evidence requiring OCA consent to disclose to the defense.

b. The prosecution submitted the unclassified CID case file to the National Security Agency (NSA) and another government intelligence organization (OGA) to have their experts review the file for classified equities. The NSA identified approximately twenty sensitive documents requiring further review by their subject matter experts. The OGA is continuing their review of the documents.

c. The U.S. Attorney's Office for the Eastern District of Virginia is continuing to work on obtaining authorizations from the relevant district court judges on behalf of the prosecution to disclose certain exhibits and documents to the defense. Most of the relevant disclosure orders have been signed, but a few remain outstanding.

d. Since the previous request, the prosecution received approval to produce the Secretary of the Army AR 15-6 and related documents. After the defense acknowledges your protective order, dated 22 June 2011, the prosecution will immediately produce these documents and continue to produce all related documents. As the prosecution receives other approvals, it will continue to disclose evidence and information to the defense.

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ANJA CL

SUBJECT: Request for Delay of Article 32 Investigation United States v. PFC Bradley E. Manning

3. **EXCLUDABLE DELAY.** As the convening authority, you have the authority to grant a reasonable delay under the facts and circumstances of a particular case. Reasons to grant a delay include, for example, the need for time to complete other proceedings related to the case, or time to secure the availability of evidence.

4. **REQUEST.** The prosecution requests a reasonable delay of restarting the Article 32 investigation until the earlier of the completion of the OCA Disclosure Requests, OCA Classification Reviews, authorization to disclose protected unclassified information, and final review of the CID case file by the NSA and OGA, or 27 July 2011. For the reasons stated above, the United States requests the period between 22 April 2011 and the restart of the Article 32 investigation be designated as excludable delay under RCM 707(c). The prosecution will provide you an update no later than 25 July 2011.

5. The point of contact for this memorandum is the undersigned at (202) 685-1075.

Encls  
as

ASHER H HIN  
CPT, JA  
Trial Counsel

CF:  
Defense Counsel

Speedy Trial Attachment 37



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Subject: RE: US v. PFC BM (Art 32 Delay Request) (UNCLASSIFIED)

From: coombs@armycourt martialdefense.com

Date: Wed, Jun 29, 2011 8:37 pm

To: "COFFMAN, CARL R COL MIL USA IMCOM" <carl.coffman@us.army.mil>

"Matthew kemkes" <matthew.kemkes@us.army.mil>, "Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA" <JoDean.Morrow@jfhqncr.northcom.mil>, paul.bouchard@us.army.mil,

"Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA"

Cc: <Angel.Overgaard@jfhqncr.northcom.mil>, "Ford, Arthur D. WO1 USA JFHQ-NCR/MDW SJA" <Arthur.Ford@jfhqncr.northcom.mil>, "Joshua Tooman" <joshua.tooman@us.army.mil>, "Fein, Ashden CPT USA JFHQ-NCR/MDW SJA" <Ashden.Fein@jfhqncr.northcom.mil>

Sir,

The defense maintains its position as stated in its 26 April 2011 memorandum. Once the Government is able to provide the classified and unclassified discovery, we will likely need to delay the Article 32 hearing in order to provide the defense with an opportunity to adequately prepare. The defense requests that any additional delay be credited to the government.

V/R

David

David E. Coombs, Esq.

Law Office of David E. Coombs

11 South Angell Street, #317

Providence, RI 02906

Office: 1-800-588-4156

Fax: (508) 689-9282

[coombs@armycourt martialdefense.com](mailto:coombs@armycourt martialdefense.com)

[www.armycourt martialdefense.com](http://www.armycourt martialdefense.com)

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----- Original Message -----

Subject: Re: US v. PFC BM (Art 32 Delay Request) (UNCLASSIFIED)

From: "COFFMAN, CARL R COL MIL USA IMCOM" <carl.coffman@us.army.mil>

Date: Wed, June 29, 2011 4:56 pm

To: "Fein, Ashden CPT USA JFHQ-NCR/MDW SJA"

<Ashden.Fein@jfhqncr.northcom.mil>

Cc: Matthew kemkes <matthew.kemkes@us.army.mil>, "Morrow III, JoDean,

CPT USA JFHQ-NCR/MDW SJA" <JoDean.Morrow@jfhqncr.northcom.mil>,

[coombs@armycourt martialdefense.com](mailto:coombs@armycourt martialdefense.com), paul.bouchard@us.army.mil, "Overgaard,

Angel M. CPT USA JFHQ-NCR/MDW SJA"

<Angel.Overgaard@jfhqncr.northcom.mil>, "Ford, Arthur D. WO1 USA

JFHQ-NCR/MDW SJA" <Arthur.Ford@jfhqncr.northcom.mil>, Joshua Tooman

<joshua.tooman@us.army.mil>, "Ford, Arthur D. WO1 USA JFHQ-NCR/MDW

SJA"

<[Arthur.Ford@jfhqncr.northcom.mil](mailto:Arthur.Ford@jfhqncr.northcom.mil)>

Classification: UNCLASSIFIED

Mr. Coombs,

Do you have any comments on the request?

COL Coffman

On 06/27/11, "Fein, Ashden CPT USA JFHQ-NCR/MDW SJA"

<[Ashden.Fein@jfhqncr.northcom.mil](mailto:Ashden.Fein@jfhqncr.northcom.mil)> wrote:

> Sir,

>

> The United States requests an additional delay of the Article 32. Please see the attached request. We apologize for not providing an update sooner, but we were hoping to have an OCA's approval before the end of last week.

>

> v/r

> CPT Fein

>

> Ashden Fein

> CPT, JA

>

>

>

>

> Ashden Fein

> CPT, JA

Classification: UNCLASSIFIED

Speedy Trial Attachment 38



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
JOINT BASE MYER - HENDERSON HALL  
204 LEE AVENUE  
FORT MYER, VIRGINIA 22211-1195

IMND-MHJ-ZA

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Delay of Article 32 Investigation - PFC Bradley E. Manning

1. On 27 June 2011, the prosecution submitted a request to delay restarting the Article 32 Investigation until the United States receives proper authority to release discoverable unclassified evidence and information, as well as consent from all the Original Classification Authorities (OCAs) involved in this case, to release discoverable classified evidence and information to the defense, whichever is earlier. See Enclosure 1. On 29 June 2011, the defense provided a response which maintained its 26 April 2011 position acknowledging the need for additional discovery and noting the potential for further delay for defense to adequately prepare for the Article 32. See Enclosure 2.

2. This request is:

( ) approved. The Article 32 Investigation is delayed until the earlier of the completion of the OCA Disclosure Requests and OCA Classification Reviews, and authorization is granted to disclose protected unclassified information, or 27 July 2011. The period between 22 April 2011 and the restart of the Article 32 Investigation is excludable delay under Rule for Courts-Martial (RCM) 702(c). The prosecution is required to provide me an update no later than 25 July 2011.

( ) disapproved. The Article 32 Investigation will restart within thirty days of this memorandum.

3. After reviewing pertinent portions of the case file, it is my understanding that ongoing national security concerns exist in this case, as well as an ongoing law enforcement investigation(s) into PFC Manning, and others. In light of the national security concerns and ongoing investigation(s), the prosecution will cautiously proceed with the disclosure of information, but will comply with its obligations under Article 46, UCMJ, RCM 405, RCM 701, RCM 703, and applicable case law. In addition, once the prosecution receives the authority to disclose previously undisclosed information to the defense, it will do so expeditiously to minimize any unnecessary delay.

2 Encls

1. Prosecution Request, 27 June 11
2. Defense Response, 29 June 11

CARL R. COLMAN, JR.  
COL, AV  
Commanding

DISTRIBUTION:

1. Article 32 IO
1. Trial Counsel
1. Defense Counsel

Speedy Trial Attachment 39



DEPARTMENT OF THE ARMY  
U.S. ARMY MILITARY DISTRICT OF WASHINGTON  
215 A STREET  
WASHINGTON, MICHIGAN 48090-0001

MEMORANDUM FOR THE ATTORNEY GENERAL  
SUBJECT: Request for Delay of Article 32 Investigation - United States v. PFC Bradley E. Manning

SUBJECT: Request for Delay of Article 32 Investigation - United States v. PFC Bradley E. Manning

1. **PURPOSE.** The prosecution in the above-referenced case requests you continue to delay restarting the Article 32 investigation until the United States receives the proper authority to release discoverable unclassified and classified evidence and information to the defense. This consent is necessary in order for the United States to fulfill its discovery obligations under Article 46, UCMJ and the Rules for Courts Martial (RCM), as well as for the defense to adequately prepare for the Article 32 investigation.

2. **UPDATE.**

a. The prosecution is continuing to work with relevant Original Classification Authorities (OCAs) to obtain consent to disclose classified evidence and information to the defense along with receiving completed classification reviews. The classified CID forensic reports are prepared for disclosure, pending final approval by the relevant OCAs and final review of references to classified information within forensic reports.

b. The prosecution submitted the unclassified CID case file to the National Security Agency (NSA) and another government intelligence organization (OGIA) to have their experts review the file for classified equities. The NSA identified approximately twenty sensitive documents requiring further review by their subject matter experts. The OGIA identified approximately six sensitive documents requiring further review by their subject matter experts. Those reviews are ongoing.

c. The U.S. Attorney's Office for the Eastern District of Virginia is continuing to work on obtaining authorizations from the relevant district court judges on behalf of the prosecution to disclose certain exhibits and documents to the defense. Most of the relevant disclosure orders have been signed, but a few remain outstanding.

d. Since the previous request, the prosecution produced the Secretary of the Army AR 15-6 and related documents, as well as the complete record of the MSG Adkins reduction board - approximately 10,000 pages of documents in total. The prosecution intends to produce portions of the unclassified CID case file that have been approved for release by relevant stakeholder agencies no later than the date of this memorandum. As the prosecution receives other approvals, it will continue to disclose evidence and information to the defense.

NSA/CSS

SUBJECT: Request for Delay of Article 32 Investigation - United States v. PFC Bradley F. Manning

3. **EXCLUDABLE DELAY.** As the convening authority, you have the authority to grant a reasonable delay under the facts and circumstances of a particular case. Reasons to grant a delay include, for example, the need for time to complete other proceedings related to the case, or time to secure the availability of evidence.

4. **REQUEST.** The prosecution requests a reasonable delay of restarting the Article 32 investigation until the earlier of the completion of the OCA Disclosure Requests, OCA Classification Reviews, authorization to disclose protected unclassified information, and final review of the CID case file by the NSA and OGA, or 27 August 2011. For the reasons stated above, the United States requests the period between 23 April 2011 and the restart of the Article 32 investigation be designated as excludable delay under RCM 707(c). The prosecution will provide an update no later than 25 August 2011.

5. The point of contact for this memorandum is the undersigned at (202) 686-1478.

ASHDEN FEIN  
CPT, JA  
Trial Counsel

Speedy Trial Attachment 40



25 July 2011

MEMORANDUM FOR Commander, Joint Base Myer - Henderson Hall, 204 Lee Avenue, Fort Myer, VA 22211-1109

SUBJECT: Government Request for Delay of Article 32 Investigation - United States vs. PFC Bradley L. Manning

1. On 25 July 2011, the Government requested that you again delay restarting the Article 32 Investigation until it has received consent from all of the Original Classification Authorities (OCAs) to release discoverable classified evidence and information to the defense. Although classification reviews typically take time to complete, the Government has now had over a year to do so. The latest request by the trial counsel for excludable delay does not adequately explain what has been done to require timely response and reviews by the relevant OCAs.
2. Given the fact PFC Manning is currently in pretrial confinement, the Government must demonstrate due diligence in securing classification reviews. On 9 January 2011, the Defense made a request for speedy trial. The Defense once again renews this request. *United States v. Thompson*, 68 M.J. 308 (C.A.A.F. 2009) (holding that Article 10, UCMJ, creates a more exacting speedy trial demand than does the Sixth Amendment).
3. The Defense also renews its request for you to order the Government to provide either a substitute for or a summary of the information for the relevant classified documents; to allow the Defense to inspect any and all unclassified documents, tangible items, and reports within the Government's control; to provide discovery to the Defense either previously denied or not provided; AND to provide access to all CID and other law enforcement agents who have worked on this case. Rule for Court-Martial (R.C.M.) 405(g)(1)(A), (g)(1)(B), and 701(a).
4. Any additional delay should not be excluded under R.C.M. 707(c). Instead, the requested delay should be credited to the Government.
5. The point of contact for this memorandum is the undersigned at (800) 588-4150.

DAVID EDWARD COOMBS  
Civilian Defense Counsel

## Speedy Trial Attachment 41



REPLY TO:  
ATTENTION OF

DEPARTMENT OF THE ARMY  
JOINT BASE MYER - HENDERSON HALL  
204 LEE AVENUE  
FORT MYER, VIRGINIA 22211-1199

IMND-MHH-ZA

26 July 2011

MEMORANDUM FOR SFC DISTRIBUTION

SUBJECT: Delay of Article 32 Investigation - PFC Bradley E. Manning

1. On 22 July 2011, the prosecution submitted a request to delay restarting the Article 32 investigation until the United States receives proper authority to release discoverable unclassified evidence and information, as well as consent from all the Original Classification Authorities (OCAs) involved in this case to release discoverable classified evidence and information to the defense. See Enclosure 1. On 25 July 2011, the defense renewed its request to order the United States to provide either a substitute for or a summary of the information for the relevant classified documents; to allow the defense to inspect any and all unclassified documents, tangible items, and reports within the government's control; to provide discovery to the defense either previously denied or not provided; and to provide access to all CID and other law enforcement agents who have worked on this case. See Enclosure 2.

2. This request is:

(12) approved. The Article 32 Investigation is delayed until the earlier of the completion of the OCA Disclosure Requests and OCA Classification Reviews, and authorization is granted to disclose protected unclassified information, or 27 August 2011. The period between 22 April 2011 and the restart of the Article 32 Investigation is excludable delay under Rule for Courts-Martial (RCM) 707(c). The prosecution is required to provide me an update no later than 25 August 2011.

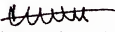
( ) disapproved. The Article 32 Investigation will restart within thirty days of this memorandum.

3. After reviewing pertinent portions of the case file and receiving an update of the procedures being followed in this case, it is my understanding that ongoing national security concerns exist in this case, as well as an ongoing law enforcement investigation(s) into PFC Manning and others. In light of the national security concerns and ongoing investigation(s), the prosecution will cautiously proceed with the disclosure of information, but will comply with its obligations under Article 46, UCMJ, RCM 405, RCM 701, RCM 703, and applicable case law. In addition, once the prosecution receives the authority to disclose previously undisclosed information to the defense, it will do so expeditiously to minimize any unnecessary delay.

2 Encls

1. Prosecution Request, 25 July 2011
2. Defense Response, 25 July 2011

DISTRIBUTION:  
1-Article 32 IO  
1-Trial Counsel  
1-Defense Counsel

  
CARL R. COFFMAN, JR.  
COL, AV  
Commanding

Speedy Trial Attachment 42



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
JOINT BASE MYER-HENDERSON HALL  
204 LEE AVENUE  
FORT MYER, VIRGINIA 22211-1199

IMND-MHH-ZA

180 Aug 11

MEMORANDUM FOR RECORD

SUBJECT: Accounting of Excludable Delay under Rule for Courts-Martial 707(c) - United States v. PFC Bradley E. Manning

1. **PURPOSE.** The purpose of this memorandum is to provide a periodic accounting for any excludable delay under Rule for Courts-Martial (RCM) 707(c) in the above-referenced matter.

2. **EXCLUDABLE DELAY.** The period from 13 July 2011 until the date of this memorandum is excludable delay under RCM 707(c).

3. **BASIS OF DELAY.** The above delay is based on the following extensions, defense requests, responses, and the facts and circumstances of this case:

- a. Original Classification Authorities' (OCA) reviews of classified information
- b. OCA consent to disclose classified information.
- c. Defense Request for Results of the Government's Classification Reviews by the OCA, dated 26 August 2010 (enclosed).
- d. Defense Request for Appropriate Security Clearances for the Defense Team and Access for PFC Manning, dated 3 September 2010 (enclosed).
- e. Government Request for Delay of Article 32 Investigation, dated 25 July 2011 (enclosed).

4. **PREVIOUS DELAYS.** This accounting of excludable delay is not intended to supersede any previous delays, but merely account for excludable delays from the previous accounting to the date of this memorandum.

5. I acknowledge and reviewed the defense request for speedy trial, dated 13 January 2011 (enclosed), and the renewed request for speedy trial, dated 25 July 2011 (enclosed).

Encls  
as

  
CARL R. COFFMAN, JR.  
COL, AV  
Commanding

CF: (wo/encls)  
1-Trial Counsel  
1-Defense Counsel

Speedy Trial Attachment 43



REPLY TO  
ATTENTION OF

FOR OFFICIAL USE ONLY

DEPARTMENT OF THE ARMY  
U.S. ARMY MILITARY DISTRICT OF WASHINGTON  
210 A STREET  
FORT LESLEY J. MCNAIR, DC 20319-5013

ANJA-CL

25 August 2011

MEMORANDUM FOR Commander, U.S. Army Garrison, Joint Base Myer - Henderson Hall,  
204 Lee Avenue, Fort Myer, VA 22211-1199

SUBJECT: Request for Delay of Article 32 Investigation United States v. PFC Bradley  
Manning

1. **PURPOSE.** The prosecution in the above-referenced case requests you continue to delay restarting the Article 32 investigation until the United States receives the proper authority to release discoverable unclassified and classified evidence and information to the defense. This consent is necessary for the United States to fulfill its discovery obligations under Article 46, UCMJ and the Rules for Courts-Martial (RCM), as well as for the defense to adequately prepare for the Article 32 investigation.

2. **UPDATE.**

a. The prosecution is continuing to work with relevant Original Classification Authorities (OCAs) to obtain consent to disclose classified evidence and information to the defense along with receiving completed classification reviews.

b. CID is conducting a secondary review of the derivative classification of the forensic reports. Recently, the government's security expert reviewed the forensic reports and advised that portions of the reports should be reviewed based on the Security Classification Guides governing the information. The prosecution intends to produce the full reports once a final determination of the derivative classification is made by CID Command and the Army G2 gives release consent. Three of these reports are unclassified in their entirety, and were given to the defense on 25 July 2011.

c. The prosecution submitted the unclassified CID case file to the National Security Agency (NSA) and another government intelligence organization (OGA) to have their experts review the file for classified equities. The NSA identified approximately twenty sensitive documents requiring further review by their subject matter experts. The OGA identified approximately six sensitive documents requiring further review by their subject matter experts. The OGA completed its additional review, but the NSA review is ongoing.

d. The U.S. Attorney's Office for the Eastern District of Virginia has obtained all authorizations from the relevant district court judges on behalf of the prosecution, and the prosecution is currently obtaining signed protective orders from defense, as required by the district court judges, to allow disclosure of all relevant exhibits and documents to the defense.

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ANJA-CL

SUBJECT: Request for Delay of Article 32 Investigation - United States v. PFC Bradley Manning

c. The prosecution is continuing to work with the Federal Bureau of Investigation (FBI) and the Diplomatic Security Service (DSS) to receive authorization to disclose relevant portions of any case files. This includes obtaining copies of the FBI and DSS case files, if any, to conduct a search of the files for discoverable information.

f. Since the previous request, the prosecution produced 21,442 pages of documents (bates numbers 021364 042806). The evidence and information disclosed included the vast majority of the unclassified CID case file, the MAJ Clausen administrative reprimand file, recordings of all visits with PFC Manning at MCB Q, and various other documents. As the prosecution receives other approvals, it will continue to disclose evidence and information to the defense.

3. **EXCLUDABLE DELAY.** As the convening authority, you have the authority to grant a reasonable delay under the facts and circumstances of a particular case. Reasons to grant a delay include, for example, time to enable counsel to prepare for trial in complex cases, time to obtain appropriate security clearances for access to classified information, or time to secure the availability of evidence. See RCM 707(c), Discussion.

4. **REQUEST.** Given the complexity of this case, stemming from the number of classification authorities involved and the volume of information requiring classification reviews, the prosecution requests a reasonable delay of restarting the Article 32 investigation until the earlier of the completion of the OCA Disclosure Requests, OCA Classification Reviews, final determination of derivative classifications, final review of the CID case file by the NSA, and release authority from relevant district court judges, or 27 September 2011. The prosecution has actively and diligently worked to resolve all outstanding issues to ensure timely release of all possible information to the defense so their ability to represent and potentially defend their client will be in no way impaired. For the reasons stated above, the United States requests the period between 22 April 2011 and the restart of the Article 32 investigation be designated as excludable delay under RCM 707(c). The prosecution will provide you an update no later than 23 September 2011.

5. The point of contact for this memorandum is the undersigned at (202) 685-1975.

ASHDEN FEIN  
CPT, JA  
Trial Counsel

CF:  
Defense Counsel



Speedy Trial Attachment 44

[Print](#) | [Close Window](#)

Subject: RE: US v. PFC BM (Art 32 Delay Request)

From: coombs@armycourt martialdefense.com

Date: Sat, Aug 27, 2011 7:50 pm

To: carl.coffman@us.army.mil

"Matthew kemkes" <matthew.kemkes@us.army.mil>, "Tooman, Joshua J CPT MIL US USA TRADOC" <joshua.tooman@us.army.mil>, paul.r.bouchard@us.army.mil, "Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA"

Cc: <JoDean.Morrow@jfhqncr.northcom.mil>, "Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA" <Angel.Overgaard@jfhqncr.northcom.mil>, "Ford, Arthur D. WO1 USA JFHQ-NCR/MDW SJA" <Arthur.Ford@jfhqncr.northcom.mil>, "Ashden CPT USA JFHQ-NCR/MDW SJA Fein" <Ashden.Fein@jfhqncr.northcom.mil>

Sir,

The Defense maintains its previous position that any additional delay should not be excluded under R.C.M. 707(c). Instead, the requested delay should be credited to the Government for speedy trial purposes under Article 10 of the Uniform Code of Military Justice.

V/R

David

David E. Coombs, Esq.  
Law Office of David E. Coombs  
11 South Angell Street, #317  
Providence, RI 02906  
Toll Free: 1-800-588-4156  
Local: (508) 689-4616  
Fax: (508) 689-9282  
[coombs@armycourt martialdefense.com](mailto:coombs@armycourt martialdefense.com)  
[www.armycourt martialdefense.com](http://www.armycourt martialdefense.com)

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----- Original Message -----

Subject: Re: US v. PFC BM (Art 32 Delay Request)

From: [carl.coffman@us.army.mil](mailto:carl.coffman@us.army.mil)

Date: Sat, August 27, 2011 6:31 am

To: "Ashden CPT USA JFHQ-NCR/MDW SJA Fein"

<[Ashden.Fein@jfhqncr.northcom.mil](mailto:Ashden.Fein@jfhqncr.northcom.mil)>

Cc: "Matthew kemkes" <[matthew.kemkes@us.army.mil](mailto:matthew.kemkes@us.army.mil)> ,

coombs@armycourt martialdefense.com, "Tooman, Joshua J CPT MIL US  
USA TRADOC" <joshua.tooman@us.army.mil>,  
paul.r.bouchard@us.army.mil, "Morrow III, JoDean, CPT USA  
JFHQ-NCR/MDW SJA" <JoDean.Morrow@jfhqncr.northcom.mil>,  
"Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA"  
<Angel.Overgaard@jfhqncr.northcom.mil>, "Ford, Arthur D. WO1 USA  
JFHQ-NCR/MDW SJA" <Arthur.Ford@jfhqncr.northcom.mil>

Mr. Coombs,  
Do you have any issues or additions?  
COL Coffman  
Sent via BlackBerry by AT&T

-----Original Message-----

From: "Fein, Ashden CPT USA JFHQ-NCR/MDW SJA"

<Ashden.Fein@jfhqncr.northcom.mil>

Date: Thu, 25 Aug 2011 21:53:39

To: Coffman, Carl R COL MIL USA <carl.coffman@us.army.mil>

Cc: Matthew kemkes <matthew.kemkes@us.army.mil>;  
<coombs@armycourt martialdefense.com>; Tooman, Joshua J CPT MIL  
US USA TRADOC <joshua.tooman@us.army.mil>;  
<paul.r.bouchard@us.army.mil>; Morrow III, JoDean, CPT USA JFHQ-  
NCR/MDW SJA <JoDean.Morrow@jfhqncr.northcom.mil>; Overgaard,  
Angel M. CPT USA JFHQ-NCR/MDW  
SJA <Angel.Overgaard@jfhqncr.northcom.mil>; Ford, Arthur D. WO1  
USA JFHQ-NCR/MDW SJA <Arthur.Ford@jfhqncr.northcom.mil>  
Subject: US v. PFC BM (Art 32 Delay Request)

Sir,

The United States requests an additional delay of the Article 32.  
Please  
see the attached request.

v/r  
CPT Fein

## Speedy Trial Attachment 45



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
JOINT BASE MYER - HENDERSON HALL  
284 LEE AVENUE  
FORT MYER, VIRGINIA 22211-1199

IND-MHI-ZA

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Delay of Article 32 Investigation - PFC Bradley Manning

1. On 25 August 2011, the prosecution submitted a request to delay restarting the Article 32 Investigation until the United States receives proper authority to release discoverable unclassified evidence and information, as well as consent from all the Original Classification Authorities (OCAs) involved in this case to release discoverable classified evidence and information to the defense. See Enclosure 1. On 27 August 2011, the defense maintained its previous position that any additional delay should not be excluded under Rule for Courts-Martial (RCM) 707(c). See Enclosure 2.

2. This request is:

( ) approved. The Article 32 Investigation is delayed until the earlier of the completion of the OCA Disclosure Requests and OCA Classification Reviews, final determination of derivative classifications, final review of the CID case file by the NSA, and authorization is granted to disclose protected unclassified information, or 27 September 2011. The period between 22 April 2011 and the restart of the Article 32 Investigation is excludable delay under RCM 707(c). The prosecution is required to provide me an update no later than 23 September 2011.

( ) disapproved. The Article 32 Investigation will restart within thirty days of this memorandum.

3. After reviewing pertinent portions of the case file and receiving an update of the procedures being followed in this case, it is my understanding that ongoing national security concerns exist in this case, as well as an ongoing law enforcement investigation(s) into PFC Manning and others. In light of the national security concerns and ongoing investigation(s), the prosecution will cautiously proceed with the disclosure of information, but will comply with its obligations under Article 46, UCMJ, RCM 405, RCM 701, RCM 703, and applicable case law. In addition, once the prosecution receives the authority to disclose previously undisclosed information to the defense, it will do so expeditiously to minimize any unnecessary delay.

2 Encls

1. Prosecution Request, 25 August 2011
2. Defense Response, 27 August 2011

DISTRIBUTION:

- 1-Article 32 IO
- 1-Trial Counsel
- 1-Defense Counsel

CARL R. COFFMAN, JR.  
COL., AV  
Commanding

Speedy Trial Attachment 46

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REF ID: A66666  
ATTENTION OF

DEPARTMENT OF THE ARMY  
U.S. ARMY MILITARY DISTRICT OF WASHINGTON  
210 A STREET  
FORT LESLEY J. MCNAIR, DC 20319-5013

ANJA-CL

26 September 2011

MEMORANDUM FOR Commander, U.S. Army Garrison, Joint Base Myer - Henderson Hall, 204 Lee Avenue, Fort Myer, VA 22211-1199

SUBJECT: Request for Delay of Article 32 Investigation United States v. PFC Bradley Manning

1. **PURPOSE.** The prosecution in the above-referenced case requests you continue to delay restarting the Article 32 investigation until the United States receives the proper authority to release discoverable unclassified and classified evidence and information to the defense. This consent is necessary for the United States to fulfill its discovery obligations under Article 46, UCMJ and the Rules for Courts-Martial (RCM), as well as for the defense to adequately prepare for the Article 32 investigation.

2. **UPDATE.**

a. The prosecution is continuing to work with relevant Original Classification Authorities (OCAs) to obtain consent to disclose classified evidence and information to the defense and to receive completed classification reviews. Since the last request, the prosecution received a classification review from the OCA at U.S. Cyber Command. Additionally, the prosecution is working closely with the Department of State and U.S. Southern Command and expects to receive classification reviews for more than eighty documents within the next two weeks.

b. CID started the necessary secondary review of the derivative classification of the forensic reports, and the forensic reports are currently in the final stages of review before release. After CID completes its review and once the Army G2 gives consent to release, the prosecution intends to produce the full reports, with their enclosures and attachments to the defense.

c. The prosecution submitted the unclassified CID case file to the National Security Agency (NSA) and another government intelligence organization (OGA) to have their experts review the file for classified equities. Both the NSA and OGA completed their additional review. The prosecution is working with the NSA to provide portion-marked version of the documents they deemed classified.

d. The U.S. Attorney's Office for the Eastern District of Virginia obtained all authorizations from the relevant district court judges on behalf of the prosecution. The prosecution is continuing to obtain signed protective orders from the defense, as required by the district court judges, to allow disclosure of all relevant exhibits and documents to the defense.

e. The prosecution continues to work with the Federal Bureau of Investigation (FBI) and the Diplomatic Security Service (DSS) to receive authorization to disclose relevant portions of any case files. The prosecution received copies of the FBI and DSS case files and started to review these files for discoverable information. Once the prosecution identifies discoverable information, it will work to obtain the proper authorization to produce the relevant portions to the defense.

f. Since the previous request, the prosecution produced 2,494 pages of documents (bates numbers 042807-045301). The evidence and information disclosed included documentation from the confinement

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ANJA-CL

SUBJECT: Request for Delay of Article 32 Investigation - United States v. PFC Bradley Manning

facilities, as well as the majority of two classified military intelligence investigative case files. As the prosecution receives other approvals, it will continue to disclose evidence and information to the defense.

g. The prosecution continues to work with the defense to frontload any administrative requirements for the defense members and their forensic computer experts to review classified information and evidence. Since the last request, the prosecution provided the defense with specialized hardware and software so that they are able to review all classified discovery and their experts may use their own personal equipment to analyze and review forensic duplicates of the evidence. Additionally, the prosecution provided a large volume storage device to CID so that a forensic duplicate of the evidence is available to the defense once the final authorization to release classified information is obtained.

3. **EXCLUDABLE DELAY.** As the convening authority, you have the authority to grant a reasonable delay under the facts and circumstances of a particular case. Reasons to grant a delay include, for example, time to enable counsel to prepare for trial in complex cases, time to obtain appropriate security clearances for access to classified information, or time to secure the availability of evidence. See RCM 707(c), Discussion.

4. **REQUEST.** Given the complexity of this case, stemming from the number of classification authorities involved and the volume of information requiring classification reviews, the prosecution requests a reasonable delay of restarting the Article 32 investigation until the earlier of the completion of the OCA Disclosure Requests, OCA Classification Reviews, final determination of derivative classifications, receipt of signed protective orders from the defense, and properly portion marked classified documents by the NSA, or 27 October 2011. The prosecution has actively and diligently worked to resolve all outstanding issues to ensure timely release of all possible information to the defense so their ability to represent and potentially defend their client will be in no way impaired. For the reasons stated above, the United States requests the period between 22 April 2011 and the restart of the Article 32 investigation be designated as excludable delay under RCM 707(c). The prosecution will provide you an update no later than 25 October 2011.

5. The point of contact for this memorandum is the undersigned at (202) 685-1975.

ANIDEN FCIN  
CPT, JA  
Trial Counsel

CT:  
Defense Counsel



Speedy Trial Attachment 47

[Print](#) | [Close Window](#)

Subject: RE: US v. PFC BM (Art 32 Delay Request)

From: coombs@armycourtartialdefense.com

Date: Tue, Sep 27, 2011 12:26 pm

To: carl.coffman@us.army.mil

"Matthew kemkes" <matthew.kemkes@us.army.mil>, "Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA" <JoDean.Morrow@jfhqncr.northcom.mil>, paul.r.bouchard@us.army.mil, "Haberland, John CPT MIL USA"

Cc: <john.haberland@us.army.mil>, "Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA" <Angel.Overgaard@jfhqncr.northcom.mil>, "Tooman, Joshua J CPT MIL US USA TRADOC" <joshua.tooman@us.army.mil>, "Ashden Fein" <Ashden.Fein@jfhqncr.northcom.mil>

Sir,

The Defense maintains its previous position that any additional delay should not be excluded under R.C.M. 707(c). Instead, the requested delay should be credited to the Government for speedy trial purposes under Article 10 of the Uniform Code of Military Justice.

V/R

David

David E. Coombs, Esq.  
Law Office of David E. Coombs  
11 South Angell Street, #317  
Providence, RI 02906  
Toll Free: 1-800-588-4156  
Local: (508) 689-4616  
Fax: (508) 689-9282  
[coombs@armycourtartialdefense.com](mailto:coombs@armycourtartialdefense.com)  
[www.armycourtartialdefense.com](http://www.armycourtartialdefense.com)

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| ----- Original Message -----

Subject: US v. PFC BM (Art 32 Delay Request)  
From: "Fein, Ashden CPT USA JFHQ-NCR/MDW SJA"  
<[Ashden.Fein@jfhqncr.northcom.mil](mailto:Ashden.Fein@jfhqncr.northcom.mil)>  
Date: Tue, September 27, 2011 7:39 am  
To: <[carl.coffman@us.army.mil](mailto:carl.coffman@us.army.mil)>  
Cc: <[coombs@armycourt martialdefense.com](mailto:coombs@armycourt martialdefense.com)>, "Matthew kemkes"  
<[matthew.kemkes@us.army.mil](mailto:matthew.kemkes@us.army.mil)>, "Morrow III, JoDean, CPT USA  
JFHQ-NCR/MDW  
SJA" <[JoDean.Morrow@jfhqncr.northcom.mil](mailto:JoDean.Morrow@jfhqncr.northcom.mil)>,  
<[paul.r.bouchard@us.army.mil](mailto:paul.r.bouchard@us.army.mil)>, "Haberland, John CPT MIL USA"  
<[john.haberland@us.army.mil](mailto:john.haberland@us.army.mil)>, "Overgaard, Angel M. CPT USA JFHQ-  
NCR/MDW  
SJA" <[Angel.Overgaard@jfhqncr.northcom.mil](mailto:Angel.Overgaard@jfhqncr.northcom.mil)>, "Tooman, Joshua J  
CPT MIL  
US USA TRADOC" <[joshua.tooman@us.army.mil](mailto:joshua.tooman@us.army.mil)>

Sir,

Attached is a signed version. Thank you.

v/r  
Ashden

-----Original Message-----

From: Fein, Ashden CPT USA JFHQ-NCR/MDW SJA  
Sent: Monday, September 26, 2011 5:35 PM  
To: <[carl.coffman@us.army.mil](mailto:carl.coffman@us.army.mil)>  
Cc: <[coombs@armycourt martialdefense.com](mailto:coombs@armycourt martialdefense.com)>; Matthew kemkes; Morrow  
III, JoDean,  
CPT USA JFHQ-NCR/MDW SJA; <[paul.r.bouchard@us.army.mil](mailto:paul.r.bouchard@us.army.mil)>;  
Haberland, John CPT MIL  
USA; Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA; Tooman,  
Joshua J CPT MIL US  
USA TRADOC  
Subject: US v. PFC BM (Art 32 Delay Request)  
Importance: High

Sir,

The United States requests a delay of the Article 32. Please see the  
attached  
request. Our digital scanner does not work, so I am providing an  
unsigned but  
final version. I will send an updated signed copy tomorrow.

v/r  
CPT Fein

Ashden Fein  
CPT, JA

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Speedy Trial Attachment 48



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
JOINT BASE MYER - HENDERSON HALL  
204 LEE AVENUE  
FORT MYER, VIRGINIA 22211-1199

IMND-MHH-ZA

28SEP2011

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Delay of Article 32 Investigation - United States v. PFC Bradley Manning

1. On 26 September 2011, the prosecution submitted a request to delay restarting the Article 32 Investigation until the completion of Original Classification Authority (OCA) disclosure requests, OCA classification reviews, a final determination of derivative classifications, receipt of signed protective orders from the defense, and properly portion-marked classified documents by the National Security Agency (NSA), or 27 October 2011. See Enclosure 1. On 27 September 2011, the defense maintained its previous position that any additional delay should not be excluded under Rule for Courts-Martial (RCM) 707(c). See Enclosure 2.

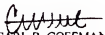
2. This request is:

( U ) approved. The Article 32 Investigation is delayed until the earlier of the completion of the OCA disclosure requests, OCA classification reviews, a final determination of derivative classifications, receipt of signed protective orders from the defense, and properly portion-marked classified documents by the NSA, or 27 October 2011. The period between 22 April 2011 and the restart of the Article 32 Investigation is excludable delay under RCM 707(c). The prosecution is required to provide me an update no later than 25 October 2011.

( ) disapproved. The Article 32 Investigation will restart within thirty days of this memorandum.

3. After reviewing pertinent portions of the case file and receiving an update of the procedures being followed in this case, it is my understanding that ongoing national security concerns exist in this case, as well as an ongoing law enforcement investigation(s) into PFC Manning and others. In light of the national security concerns and ongoing investigation(s), the prosecution will cautiously proceed with the disclosure of information, but will comply with its obligations under Article 46, UCMJ, RCM 405, RCM 701, RCM 703, and applicable case law. In addition, once the prosecution receives the authority to disclose previously undisclosed information to the defense, it will do so expeditiously to minimize any unnecessary delay.

- 2 Encls  
1. Prosecution Request, 26 Sep 11  
2. Defense Response, 27 Sep 11

  
CARL R. COFFMAN, JR.  
COL, AV  
Commanding

DISTRIBUTION:  
1-Article 32 IO  
1-Trial Counsel  
1-Defense Counsel

Speedy Trial Attachment 49



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
JOINT BASE MYER-HENDERSON HALL  
204 LEE AVENUE  
FORT MYER, VIRGINIA 22211-1199

14 OCT 2011

IMND-MHH-ZA

MEMORANDUM FOR RECORD

SUBJECT: Accounting of Excludable Delay under Rule for Courts-Martial 707(c) - United States v. PFC Bradley Manning

1. **PURPOSE.** The purpose of this memorandum is to provide a periodic accounting for any excludable delay under Rule for Courts-Martial (RCM) 707(c) in the above-referenced matter.
2. **EXCLUDABLE DELAY.** The period from 15 September 2011 until the date of this memorandum is excludable delay under RCM 707(c).
3. **BASIS OF DELAY.** The period of excludable delay is reasonable based on the following extensions, defense requests, responses, and the facts and circumstances of this case:
  - a. Original Classification Authorities' (OCA) reviews of classified information.
  - b. OCA consent to disclose classified information.
  - c. Defense Request for Results of the Government's Classification Reviews by the OCA, dated 26 August 2010 (enclosed).
  - d. Defense Request for Appropriate Security Clearances for the Defense Team and Access for PFC Manning, dated 3 September 2010 (enclosed).
  - e. Government Request for Delay of Article 32 Investigation, dated 26 September 2011 (enclosed).
4. **PREVIOUS DELAYS.** This accounting of excludable delay is not intended to supersede any previous delays, but merely account for excludable delays from the previous accounting to the date of this memorandum.
5. I acknowledge and reviewed the defense request for speedy trial, dated 13 January 2011 (enclosed), and the renewed request for speedy trial, dated 25 July 2011 (enclosed).

Encls  
as

CARL R. COFFMAN, JR.  
COL., AV  
Commanding

CT: (wo/encls)  
1-Trial Counsel  
1-Defense Counsel



Speedy Trial Attachment 50



REPLY TO  
ATTENTION OF

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**DEPARTMENT OF THE ARMY**  
**U.S. ARMY MILITARY DISTRICT OF WASHINGTON**  
219 A STREET  
FORT LESLEY J. MCNAIR, DC 20319-5013

ANJA-CL

25 October 2011

MEMORANDUM FOR Commander, U.S. Army Garrison, Joint Base Myer - Henderson Hall,  
204 Lee Avenue, Fort Myer, VA 22211-1199

SUBJECT: Request for Delay of Article 32 Investigation - United States v. PFC Bradley Manning

1. **PURPOSE.** The prosecution in the above-referenced case requests you continue to delay restarting the Article 32 investigation until the United States receives the proper authority to release discoverable classified evidence and information to the defense. This consent is necessary for the United States to fulfill its discovery obligations under Article 46, UCMJ and the Rules for Courts-Martial (RCM), as well as for the defense to adequately prepare for the Article 32 investigation.

2. **UPDATE.**

a. The prosecution is continuing to work with relevant Original Classification Authorities (OCAs) to obtain consent to disclose classified evidence and information to the defense and to receive completed classification reviews. Within the last several days, the prosecution received a classification review of approximately one hundred documents and a video from the OCA at U.S. Central Command. Additionally, the prosecution is continuing to work closely with the Department of State, a government intelligence agency (OGA), and U.S. Southern Command and expects to receive classification reviews for more than eighty documents before 1 November 2011.

b. CID completed the necessary secondary review of the derivative classification of the forensic reports, and the prosecution is currently processing and packaging the forensic reports, enclosures, and attachments for delivery to the Army G2 no later than 27 October 2011. These reports consist of over 40,000 documents totaling more than 300,000 pages. The prosecution will release the final forensic reports to the defense once the review by the Army G2 is complete and consent to disclose is received.

c. The prosecution submitted the unclassified CID case file to the National Security Agency (NSA) and an OGA to have their experts review the file for classified equities. Both the NSA and OGA completed their additional review. Absent an unforeseen administrative issue, the prosecution will produce portion-marked versions of the documents deemed classified by the NSA and OGA no later than 27 October 2011.

d. Based on discussions with multiple OGAs, the prosecution's security expert is developing an evidence classification guide (ECG) to aid law enforcement, prosecution, defense, and other

ANJA-CL

SUBJECT: Request for Delay of Article 32 Investigation – United States v. PFC Bradley Manning

government officials in understanding what specific investigative information is classified. Although this guide will not be a security classification guide published by an OCA, this guide based on derivative classifications can be used by all parties and potential witnesses to understand what information is classified or not. In the short term, the guide will be used by CID agents and other government officials when discussing the case with the defense.

e. The prosecution continues to work with the Federal Bureau of Investigation (FBI) and the Diplomatic Security Service (DSS) to receive authorization to disclose relevant portions of any case files. The prosecution received copies of the FBI and DSS case files and started to review these files for discoverable information. Once the prosecution identifies discoverable information, it will work to obtain the proper authorization to produce the relevant portions to the defense.

f. Since the previous request, the prosecution produced 771 pages of documents (bates numbers 045302-046073). The evidence and information disclosed consisted of additional documents from the CID case file. As the prosecution receives other approvals, it will continue to disclose evidence and information to the defense.

g. The prosecution proposed a meeting with the defense for 8-9 November 2011. The purpose of the meeting is to assist the defense in the disposition of this case by the prosecution presenting evidence supporting the charges against the accused and proposing potential plea terms. The goal of the meeting is to help the defense focus their review of the voluminous forensic evidence and potentially minimize future delays.

h. The prosecution continues to work with the defense to frontload any administrative requirements for the defense members and their forensic computer experts to review classified information and evidence. Since the last request, the prosecution effected the re-imaging of three classified laptop computers previously provided to the defense to process classified information. Additionally, the prosecution ordered several items requested by defense counsel, including a color printer, a GSA-approved shredder, and large courier bags for transporting classified information.

**3. EXCLUDABLE DELAY:** As the convening authority, you have the authority to grant a reasonable delay under the facts and circumstances of a particular case. Reasons to grant a delay include, for example, time to enable counsel to prepare for trial in complex cases, time to obtain appropriate security clearances for access to classified information, or time to secure the availability of evidence. See RCM 707(c), Discussion.

**4. REQUEST.** Given the complexity of this case, stemming from the number of classification authorities involved and the volume of information requiring classification reviews, the prosecution requests a reasonable delay of restarting the Article 32 investigation until the earlier of the completion of the OCA Disclosure Requests, OCA Classification Reviews, and receipt of signed protective orders from the defense, or 28 November 2011. The prosecution has actively

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SUBJECT: Request for Delay of Article 32 Investigation – United States v. PFC Bradley Manning

and diligently worked to resolve all outstanding issues to ensure timely release of all possible information to the defense so their ability to represent and potentially defend their client will be in no way impaired. For the reasons stated above, the United States requests the period between 22 April 2011 and the restart of the Article 32 investigation be designated as excludable delay under RCM 707(c). The prosecution will provide you an update no later than 23 November 2011.

5. The point of contact for this memorandum is the undersigned at (202) 685-1975.

ASHDEN FEIN  
CPT, JA  
Trial Counsel

CF:  
Defense Counsel

Speedy Trial Attachment 51

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Subject: RE: US v. PFC BM (Art 32 Delay Request)  
From: coombs@armycourtartialdefense.com  
Date: Tue, Oct 25, 2011 6:49 pm  
To: carl.coffman@us.army.mil  
"Matthew kemkes" <matthew.kemkes@us.army.mil>, "Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA" <JoDean.Morrow@jfhqncr.northcom.mil>, paul.r.bouchard@us.army.mil, "Haberland, John CPT MIL USA"  
Cc: <john.haberland@us.army.mil>, "Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA" <Angel.Overgaard@jfhqncr.northcom.mil>, "Tooman, Joshua J CPT MIL US USA TRADOC" <joshua.tooman@us.army.mil>, "Ashden Fein" <Ashden.Fein@jfhqncr.northcom.mil>

Sir,

The defense maintains its previous position that any additional delay should not be excluded under R.C.M. 707(c). Instead, the requested delay should be credited to the Government for speedy trial purposes under Article 10 of the Uniform Code of Military Justice.

V/R  
David

David E. Coombs, Esq.  
Law Office of David E. Coombs  
11 South Angell Street, #317  
Providence, RI 02906  
Toll Free: 1-800-588-4156  
Local: (508) 689-4616  
Fax: (508) 689-9282  
[coombs@armycourtartialdefense.com](mailto:coombs@armycourtartialdefense.com)  
[www.armycourtartialdefense.com](http://www.armycourtartialdefense.com)

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| ----- Original Message -----

Subject: US v. PFC BM (Art 32 Delay Request)  
From: "Fein, Ashden CPT USA JFHQ-NCR/MDW SJA"  
<Ashden.Fein@jfhqncr.northcom.mil>  
Date: Tue, October 25, 2011 6:10 pm  
To: <carl.coffman@us.army.mil>  
Cc: <coombs@armycourtartialdefense.com>, "Matthew kemkes"  
<matthew.kemkes@us.army.mil>, "Morrow III, JoDean, CPT USA  
JFHQ-NCR/MDW  
SJA" <JoDean.Morrow@jfhqncr.northcom.mil>,  
<paul.r.bouchard@us.army.mil>, "Haberland, John CPT MIL USA"  
<john.haberland@us.army.mil>, "Overgaard, Angel M. CPT USA JFHQ-  
NCR/MDW  
SJA" <Angel.Overgaard@jfhqncr.northcom.mil>, "Tooman, Joshua J  
CPT MIL  
US USA TRADOC" <joshua.tooman@us.army.mil>

Sir,

The United States requests a delay of the Article 32. Please see the attached request.

v/r  
CPT Fein

Ashden Fein  
CPT, JA

Speedy Trial Attachment 52





REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
JOINT BASE MYER - HENDERSON HALL  
204 LEE AVENUE  
FORT MYER, VIRGINIA 22211-1199

TMND-MHH-ZA

27 OCT 2011

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Delay of Article 32 Investigation - United States v. PFC Bradley Manning

1. On 25 October 2011, the prosecution submitted a request to delay restarting the Article 32 Investigation until the completion of Original Classification Authority (OCA) disclosure requests, OCA classification reviews, and receipt of signed protective orders from the defense, or 28 November 2011. See Enclosure 1. On 25 October 2011, the defense maintained its previous position that any additional delay should not be excluded under Rule for Courts-Martial (RCM) 707(c). See Enclosure 2.

2. This request is:

( CB ) approved. The Article 32 Investigation is delayed until the earlier of the completion of the OCA disclosure requests, OCA classification reviews, and receipt of signed protective orders from the defense, or 28 November 2011. The period between 22 April 2011 and the restart of the Article 32 Investigation is excludable delay under RCM 707(c). The prosecution is required to provide me an update no later than 23 November 2011.

( ) disapproved. The Article 32 Investigation will restart within thirty days of this memorandum.

3. After reviewing pertinent portions of the case file and receiving an update of the procedures being followed in this case, it is my understanding that ongoing national security concerns exist in this case, as well as an ongoing law enforcement investigation(s) into PFC Manning and others. In light of the national security concerns and ongoing investigation(s), the prosecution will cautiously proceed with the disclosure of information, but will comply with its obligations under Article 46, UCMJ, RCM 405, RCM 701, RCM 703, and applicable case law. In addition, once the prosecution receives the authority to disclose previously undisclosed information to the defense, it will do so expeditiously to minimize any unnecessary delay.

2 Encls

1. Prosecution Request, 25 Oct 11
2. Defense Response, 25 Oct 11

DISTRIBUTION:

- 1-Article 32 IO
- 1-Trial Counsel
- 1-Defense Counsel

CARL R. COFFMAN, JR.  
COL., AV  
Commanding

Speedy Trial Attachment 53



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
JOINT BASE MYER-HENDERSON HALL  
204 LEE AVENUE  
FORT MYER, VIRGINIA 22211-1199

IMND-MHH-ZA


16 NOV 11

MEMORANDUM FOR RECORD

SUBJECT: Accounting of Excludable Delay under Rule for Courts-Martial 707(c) – United States v. PFC Bradley Manning

1. **PURPOSE.** The purpose of this memorandum is to provide a periodic accounting for any excludable delay under Rule for Courts-Martial (RCM) 707(c) in the above-referenced matter.
2. **EXCLUDABLE DELAY.** The period from 14 October 2011 until the date of this memorandum is excludable delay under RCM 707(c).
3. **BASIS OF DELAY.** The period of excludable delay is reasonable based on the following extensions, defense requests, responses, and the facts and circumstances of this case:
  - a. Original Classification Authorities' (OCA) reviews of classified information.
  - b. OCA consent to disclose classified information.
  - c. Defense Request for Results of the Government's Classification Reviews by the OCA, dated 26 August 2010 (enclosed).
  - d. Government Request for Delay of Article 32 Investigation, dated 27 October 2011 (enclosed).
4. **PREVIOUS DELAYS.** This accounting of excludable delay is not intended to supersede any previous delays, but merely account for excludable delays from the previous accounting to the date of this memorandum.
5. I acknowledge and reviewed the defense request for speedy trial, dated 13 January 2011 (enclosed), and the renewed request for speedy trial, dated 25 July 2011 (enclosed).

Encls  
as

  
CARL R. COFFMAN, JR.  
COL, AV  
Commanding

CF: (wo/encls)  
1-Trial Counsel  
1-Defense Counsel

Speedy Trial Attachment 54



REPLY TO  
ATTENTION OF

ANJA-CL

16 November 2011

MEMORANDUM FOR Commander, U.S. Army Garrison, Joint Base Myer – Henderson Hall, 204 Lee Avenue, Fort Myer, VA 22211-1199

SUBJECT: Request to Restart Article 32 Investigation - United States v. PFC Bradley Manning

1. **PURPOSE.** The prosecution in the above-referenced case makes a two-fold request. First, the prosecution requests you direct the investigating officer to restart the Article 32 investigation. The prosecution is prepared to proceed and, by 1 December 2011, should receive all approvals and classification reviews necessary to proceed. Second, the prosecution requests the period from the date of this memorandum to 16 December 2011 be approved as excludable delay.

2. **ARTICLE 32 RESTART REQUEST.** The prosecution requests you direct the investigating officer to restart the Article 32 investigation. Since 25 October 2011, the prosecution has continued to work diligently to resolve the following issues that served as a basis for the delay of the Article 32 investigation:

a. Original Classification Authorities (OCA) reviews of classified information. The prosecution received completed classification reviews for all charged documents, except the final charged document relevant to Specification 15 of Charge II. *See* Enclosure 1. On 14 November 2011, the prosecution received written confirmation from an OCA delegate that the classification review for the final charged document will be completed no later than 1 December 2011, if it is determined that such a declaration is necessary. *See* Enclosure 2. Based upon this commitment, the prosecution requests the Article 32 investigation restart at this time to avoid further delay.

b. OCA consent to disclose classified information. Under Executive Orders 12958 and 13526 (as applicable) and Army Regulations 380-5 and 380-67, the United States cannot release classified information originating in a department or agency to parties outside of the executive branch without the consent of the OCA or their delegate. The prosecution worked diligently with all of the departments and agencies that originally classified the information and evidence sought to be disclosed to the defense and the accused, including CID, whose unclassified case file consisted of several exhibits and documents containing classified information. The prosecution disclosed such information upon receipt of the Department of the Army's approval. The prosecution recently produced approximately 380,000 pages of discovery, including (1) all charged documents; (2) all final forensic reports; (3) the complete unclassified CID case file; (4) classification reviews; and (5) two classified military intelligence investigative case files.

c. Defense request for appropriate security clearances for the defense team and access for the accused. On 3 September 2010, the defense submitted a request for security clearances for the defense team and access for the accused. *See* Enclosure 3. All members of the defense team received their security clearances on or before 13 October 2011. On 4 November 2011, the prosecution received the final approval necessary for the defense team and accused to access all the charged classified information. *See* Enclosure 2.

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ANJA-CL

SUBJECT: Request to Restart Article 32 Investigation – United States v. PFC Bradley Manning

3. **EXCLUDABLE DELAY.** The prosecution requests the period from the date of this memorandum to 16 December 2011 be approved as excludable delay under RCM 707(c) for the following reasons:

a. The prosecution is continuing to work with a relevant OCA to obtain a completed classification review for the final charged document relevant to Specification 15 of Charge II. The prosecution received written confirmation from the OCA's delegate that the classification review for the final charged document will be completed no later than 1 December 2011. *See* Enclosure 2.

b. The command requires adequate time to execute OPLAN BRAVO, a prerequisite for the Article 32 proceeding given the facts and circumstances of this case and the public interest in this hearing. *See* Enclosure 4.

(1) OPLAN BRAVO directs early planning for, and ensures coordinated and synchronized support of, all aspects of the Article 32 proceeding. On order, OPLAN BRAVO requires the command to coordinate travel, security, public affairs, infrastructure support, including Department of Army assets for movement, and interagency support for both the substance and administration of the above-referenced case. The mission's key tasks include safely and securely transporting and maintaining custody of the accused, providing physical security and support at all stages of the proceeding, and conducting public affairs and media support.

(2) The command, including its subordinate units and staff sections, requires thirty days to initiate OPLAN BRAVO to execute the specified tasks outlined in Enclosure 4, including allowing adequate time for contracts to be executed. OPLAN BRAVO and its associated tasks/requirements do not begin until you restart the Article 32 investigation.

4. The point of contact for this memorandum is the undersigned at (202) 685-1975.

4 Encls

1. Classification Reviews (x7) (S//NF)
2. Email, 14 Nov 11 (S//NF)
3. Memo, 3 Sep 10
4. OPLAN BRAVO w/ Attachments (LES)

ASHDEN FEIN  
CPT, JA  
Trial Counsel

CF:

Defense Counsel (wo/encls)

Note: Enclosure 1 was produced in discovery. Enclosures 2 and 4 are on file with the prosecution and available anytime for inspection by the defense.

Speedy Trial Attachment 55

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**Subject:** RE: US v. PFC BM (Art 32 Restart & Delay)

**From:** coombs@armycourtartialdefense.com

**Date:** Wed, Nov 16, 2011 2:41 pm

**To:** carl.coffman@us.army.mil

"Matthew kemkes" <matthew.kemkes@us.army.mil>, "Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA" <JoDean.Morrow@jfhqncr.northcom.mil>, "Haberland, John CPT MIL USA" <john.haberland@us.army.mil>, "Overgaard, Angel M. CPT USA JFHQ-

Cc: NCR/MDW SJA" <Angel.Overgaard@jfhqncr.northcom.mil>, "Ashden Fein"

<Ashden.Fein@jfhqncr.northcom.mil>, "Paul Bouchard"

<paul.r.bouchard.mil@mail.mil>, "Joshua Tooman" <joshua.j.tooman.mil@mail.mil>, "Melissa Santiago" <melissa.s.santiago@us.army.mil>

"Cassius Hall" <cassius.hall@us.army.mil>, "Charles Ganiel"

<Charles.Ganiel@us.army.mil>, "Lillian Smith" <lillian.smith@conus.army.mil>, "Eric

Bcc: Lakes" <edl@cyberagentsinc.com>, ts@cyberagentsinc.com, "Grey Deborah"

<deborahgrey@earthlink.net>, "Patrick Armistead-Jehle"

<patrick.jehle@amedd.army.mil>, "David Moulton" <David.Moulton@med.navy.mil>

Sir,

On Monday, I had a conversation with CPT Fein and LTC Almanza. We discussed the possible dates for the restart of the Article 32, and the need for time for the Government to execute OPLAN Bravo. Later that day, I sent an email to CPT Fein requesting, in anticipation of your order to restart that Article 32, that the Government begin its preparations so that you could order a restart on 12 December 2011. Based upon the Government's request today, it appears that nothing has been done between Monday and today. Additionally, the Government has failed to provide you with any justification for the arbitrary 30-day requirement in order to complete its OPLAN Bravo.

The Defense requests that you order the restart to occur on 12 December 2011. This will provide the government with 27 days to execute its OPLAN Bravo. By ordering the restart on 12 December 2011, you will provide us with enough time to complete the hearing prior to the holiday period. This would avoid any issues with obtaining needed witnesses or unnecessarily requiring some witnesses to cancel their previously scheduled holiday plans.

Additionally, the Defense objects to the Government's request that you determine that the time period between today and the actual restart date should be excludable delay under R.C.M. 707(c). This time period should instead count against the Government for speedy trial purposes under Article 10 of the Uniform Code of Military Justice.

Best,  
David



David E. Coombs, Esq.  
Law Office of David E. Coombs  
11 South Angell Street, #317  
Providence, RI 02906  
Toll Free: 1-800-588-4156  
Local: (508) 689-4616  
Fax: (508) 689-9282  
[coombs@armycourtartialdefense.com](mailto:coombs@armycourtartialdefense.com)  
[www.armycourtartialdefense.com](http://www.armycourtartialdefense.com)

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----- Original Message -----

Subject: US v. PFC BM (Art 32 Restart & Delay)  
From: "Fein, Ashden CPT USA JFHQ-NCR/MDW SJA"  
<[Ashden.Fein@jfhqncr.northcom.mil](mailto:Ashden.Fein@jfhqncr.northcom.mil)>  
Date: Wed, November 16, 2011 2:13 pm  
To: <[carl.coffman@us.army.mil](mailto:carl.coffman@us.army.mil)>  
Cc: <[coombs@armycourtartialdefense.com](mailto:coombs@armycourtartialdefense.com)>, "Matthew kemkes"  
<[matthew.kemkes@us.army.mil](mailto:matthew.kemkes@us.army.mil)>, "Morrow III, JoDean, CPT USA  
JFHQ-NCR/MDW  
SJA" <[JoDean.Morrow@jfhqncr.northcom.mil](mailto:JoDean.Morrow@jfhqncr.northcom.mil)>,  
<[paul.r.bouchard@us.army.mil](mailto:paul.r.bouchard@us.army.mil)>, "Haberland, John CPT MIL USA"  
<[john.haberland@us.army.mil](mailto:john.haberland@us.army.mil)>, "Overgaard, Angel M. CPT USA JFHQ-  
NCR/MDW  
SJA" <[Angel.Overgaard@jfhqncr.northcom.mil](mailto:Angel.Overgaard@jfhqncr.northcom.mil)>, "Tooman, Joshua J  
CPT MIL  
US USA TRADOC" <[joshua.tooman@us.army.mil](mailto:joshua.tooman@us.army.mil)>

Sir,

The United States requests immediate action on this request to start  
OPLAN  
BRAVO. Attached is a request to restart the Article 32 investigation,  
and a  
request to exclude additional time under the RCM.

Thank you.

v/r

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Speedy Trial Attachment 56



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
JOINT BASE MYER - HENDERSON HALL  
204 LEE AVENUE  
FORT MYER, VIRGINIA 22211-1199

DMND-MHH-ZA

16 NOV 11

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Excludable Delay - United States v. PFC Bradley Manning

1. On 16 October 2011, the prosecution submitted a request to exclude the period between the date of this memorandum and 16 December 2011 as excludable delay under RCM 707(c). The reasons for the request were for the prosecution to obtain the final classification review from an Original Classification Authority and to provide the command adequate time to execute OPLAN BRAVO. See Enclosure 1. On 16 November 2011, the defense objected to the government's proposed start date and proposed the Article 32 start on 12 December 2011. Additionally, the defense maintained its previous position that any additional delay should not be excluded under Rule for Courts-Martial (RCM) 707(c). See Enclosure 2. I reviewed both the prosecution's request and its enclosures and the defense's response.

2. This request is:

( 6 ) approved. The Article 32 Investigation will restart no earlier than 16 December 2011. The period between 22 April 2011 and 16 December 2011 is excludable delay under RCM 707(c).

( ) approved, in part. The Article 32 Investigation will restart no earlier than 12 December 2011. The period between 22 April 2011 and 12 December 2011 is excludable delay under RCM 707(c).

( ) disapproved. The Article 32 Investigation will restart no earlier than 12 December 2011.

( ) disapproved. The Article 32 Investigation will restart within thirty days of this memorandum.

2 Encls

1. Prosecution Request, 16 Nov 11
2. Defense Response, 16 Nov 11

  
CARL R. COFFMAN, JR.  
COL, AV  
Commanding

DISTRIBUTION:

- 1-Article 32 IO
- 1-Trial Counsel
- 1-Defense Counsel

Speedy Trial Attachment 57



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
JOINT BASE MYER - HENDERSON HALL  
204 LEE AVENUE  
FORT MYER, VIRGINIA 22211-1199

IMND-MHII-ZA

16 Nov 11

MEMORANDUM FOR LTC Paul Almanza, 150th Judge Advocate General Detachment, Legal Support Organization, MG Albert C. Lieber, USAR Center, 6901 Telegraph Road, Alexandria, VA 22310

SUBJECT: Special Instructions for Investigation under Article 32, UCMJ

1. You are directed to resume the investigation of the enclosed charges and any other related matters concerning PFC Bradley Manning. [REDACTED] Headquarters, and Headquarters Company, U.S. Army Garrison, Joint Base Myer-Henderson Hall, Fort Myer, VA, 22211. This is your primary duty until the investigation is completed.
2. On 4 August 2010, I appointed you to investigate the original charges, dated 5 July 2010, and any other related matters concerning the accused. On 18 March 2011, I dismissed the original charges and directed you to investigate the additional charges preferred against PFC Manning, dated 1 March 2011, and any other related matters concerning the accused.
3. The accused is entitled to qualified legal counsel as a matter of right, unless he expressly waives this right. The accused is represented by Mr. David Coombs, civilian defense counsel, and multiple members of the U.S. Army Trial Defense Service (TDS). Trial counsel from the Office of the Staff Judge Advocate (OSJA), Military District of Washington (MDW), will represent the United States. The trial counsel and the defense counsel each play an adversarial role in the proceedings and you must avoid talking to either party about the merits of the case outside of settings where all parties have the opportunity to be heard.
4. You will conduct your investigation in accordance with Article 32, UCMJ, and Rule for Courts-Martial (RCM) 405. You will also use DA Pamphlet 27-17 as a procedural guide in conducting your investigation.
5. The accused is charged with Aiding the Enemy by Giving Intelligence, a violation of Article 104, UCMJ, as well as multiple violations of Articles 92 and 134, UCMJ relating to downloading and transmitting various classified documents, photographs, and videos from Secret Internet Protocol Router Network databases. You will use applicable portions of Military Rule of Evidence (MRE) 505 as your procedural guide when classified information is used during the investigation, subject to the following instructions:
  - a. The accused is required to comply with the notice provisions of MRE 505(h), and the below special instructions.

(1) If the accused intends to disclose or to cause the disclosure of classified information in any manner, or requests classified information not previously produced in discovery, the defense counsel must provide written notice no later than fourteen days before the scheduled date of the Article 32 hearing. This request will be routed through you and the trial counsel to the undersigned, but only if you determine that the requested information is relevant to the investigation, not cumulative, and requested in a timely manner.

(2) At my direction, the trial counsel will attempt to obtain the requested classified information on behalf of the defense or request authority for the defense to use the classified information in their possession at the Article 32 investigation. If the OCA does not agree to produce the classified information and/or agree to its use during the Article 32, then the material is not "reasonably available" under RCM 405(g)(2).

(3) IAW MRE 505, that decision may not be challenged until referral of the case to a court-martial, but you will include a statement of the reasons for your determination in the record of investigation and note any objection by the accused.

(4) All classified information used during your investigation is subject to my Protective Order for Classified Information, dated 17 September 2010.

b. Article 32 investigations are open to the public and you will ensure the Article 32 is kept open to the public whenever possible. If either party intends to disclose or introduce classified information in an open forum during the Article 32, you will conduct a closure hearing as outlined in RCM 806(b)(2) before closing the proceeding and excluding the public. To assist in your determination under RCM 806(b)(2), you will require both parties to submit in advance a proposed plan for the introduction of classified information during the proceeding, including subject areas or lines of questioning that may elicit classified responses during the testimony of witnesses. You will review the potentially classified subject matter areas in advance to understand how and why the subject area could involve a classified matter and develop closure procedures in consultation with your security officer.

c. You will have a security officer assigned to you for the duration of the proceeding, up to and including the completion of your findings and recommendations. The security officer will assist you whenever questions arise as to the classification of particular documents, proper handling or storage of classified information, or subject areas that may involve classified matters. You will consult your security officer when determining whether or not to close the proceeding to the public to ensure that proper procedures are followed and classified information is not inadvertently disclosed in a public forum. The security officer will be present during the entire proceeding and should be prepared to assist you if any testimony, inquiry, discussion of evidence, or documentary evidence could result in the disclosure of classified information in a setting not approved for disclosure.

6. You will schedule the time and date of the Article 32 hearing within seven days of receiving this memorandum. However, you will not convene the Article 32 investigation any sooner than thirty days from the date of this memorandum. The Article 32 will take place in the Fort Meade,

IMND-MHH-ZA

SUBJECT: Special Instructions for Investigation under Article 32, UCMJ

Maryland courtroom, and thirty days of lead time is required to execute the OPLAN to ensure proper security for the accused and other participants, establish the special infrastructure for the hearings, and prepare to have the capability to conduct closed hearings.

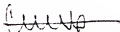
7. You will complete your investigation no later than sixty days from the date of this memorandum. The completed report will include a summarized transcript of the Article 32 investigation. Pursuant to RCM 707(c)(1), you may approve any reasonable delay of the Article 32 investigation; however, you are not authorized to grant a delay that would prevent you from completing your investigation within sixty calendar days of the date of this memorandum. Requests for delay beyond this time must be submitted to me for approval. All requests for delays must be in writing and will be either approved or disapproved in writing.

8. Contact the Chief, Administrative Law Division, OSJA, MDW to coordinate with your legal advisor. Consult your legal advisor before the hearing and throughout the Article 32 process for advice as to procedure, guidance of law applicable to the case, and proper completion of the report. The OSJA, MDW will provide administrative support for this investigation. Contact the Chief Paralegal to coordinate administrative support.

2 Encls

1. Appointment Memo, 4 Aug 10
2. Additional Charges Directive, 18 Mar 11

CF: (w/ encl)  
Trial Counsel  
Defense Counsel



CARL R. COFFMAN, JR.  
COL, AV  
Commanding



Speedy Trial Attachment 58

[Print](#) | [Close Window](#)

**Subject:** Re: US v. PFC BM (Article 32 Update) (UNCLASSIFIED)

**From:** "Almanza, Paul R LTC RES USAR USARC" <paul.r.almanza@us.army.mil>

**Date:** Wed, Jan 04, 2012 7:01 pm

**To:** "Fein, Ashden CPT USA JFHQ-NCR/MDW SJA" <Ashden.Fein@jfhqncr.northcom.mil>  
coombs@armycourt martialdefense.com, paul.r.bouchard.mil@mail.mil, "Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA" <Angel.Overgaard@jfhqncr.northcom.mil>, "Holzer, Mark LTC MIL USA OTJAG" <mark.holzer@us.army.mil>, Matthew kemkes <matthew.kemkes@us.army.mil>, "Whyte, Jeffrey H. CPT USA JFHQ-NCR/MDW SJA" <Jeffrey.Whyte@jfhqncr.northcom.mil>, "Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA" <JoDean.Morrow@jfhqncr.northcom.mil>, melissa.s.santiago@us.army.mil, "Ford, Arthur D. WO1 USA JFHQ-NCR/MDW SJA" <Arthur.Ford@jfhqncr.northcom.mil>

Classification: UNCLASSIFIED

CPT Fein -

Thank you. I will exclude as a reasonable delay the days between 23 December 2011 and 3 January 2012 when I did not work on the Article 32 Investigation.

LTC Almanza

On 01/03/12, "Fein, Ashden CPT USA JFHQ-NCR/MDW SJA" <Ashden.Fein@jfhqncr.northcom.mil> wrote:

> Sir,  
>  
> Happy New Year! Attached is the unclassified portion of the hearing's  
> summarized transcript along with an exhibit list. Ms. Williams finished  
> these on 28 Dec 11. The classified portion is ready for your review at  
> MDW and we will deliver a copy to the defense by tomorrow afternoon.  
>  
> Additionally, the United States asks that you exclude, as a reasonable  
> delay, anytime between 22 December 2011 and 3 January 2012 that you did  
> not work on the Article 32 investigation based on the federal holidays  
> and weekends.  
>  
> Thank you.  
>  
> v/r  
>  
> CPT Fein

Classification: UNCLASSIFIED

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## Speedy Trial Attachment 59

U.S. v. Manning

Article 32 Investigating Officer's Chronology

DATE	EVENT
Late Jul 10	Contacted by then-Chief Trial Judge Henley to inquire whether I would be available to serve as investigating officer (did not make note of date)
4 Aug 10	Appointed to investigate original charges
5 Aug 10	Telephone briefing on Article 32 Investigations by original legal advisor, Mr. Mike Egan
15 Oct 10	Telephone consultation with Mr. Egan concerning status of delay, advised that the original defense delay request still stood
15 Feb 11	Telephone consultation with Mr. Egan concerning contacting counsel to let them know of upcoming activation and asking about length of government's case
17 Feb 11	Received defense request to compel discovery
25 Feb 11	Received government response to defense request to compel discovery
28 Feb 11	Telephone consultation with Mr. Egan concerning contacting parties regarding defense discovery request
28 Feb 11	Responded to counsel concerning defense request to compel discovery
20 Mar 11	Received directive to investigate additional charges and charge sheet with additional charges
14 Nov 11	Telephone conference with Mr. Coombs and CPT Fein regarding scheduling of hearing
16 Nov 11	Received special instructions for conducting the investigation
21 Nov 11	Reviewed memoranda directing investigation to take place and providing special instructions
22 Nov 11	Reviewed defense discovery request; received defense notice under M.R.E. 505(h)(3)
23 Nov 11	Provided Article 32 notification memorandum to PFC Manning through counsel
28 Nov 11	PFC Manning provided notification memorandum and motion for closed hearing under R.C.M 405(h)(3)
30 Nov 11	Introductory telephone consultation with second legal advisor, LTC Mark Holzer
1 Dec 11	Reviewed defense motion to compel and government response to request for production of evidence, submitted status email to parties

5 Dec 11	Reviewed evidence at MDW
6 Dec 11	Introductory telephone conference with security officer, Mr. Prather; telephone briefing on Article 32 investigations by LTC Holzer
7 Dec 11	Reviewed administrative matters, email to counsel regarding same
9 Dec 11	Reviewed defense request concerning administrative matters, email to counsel regarding same
10 Dec 11	Reviewed defense request for Article 32 witnesses, government's requested evidence list, and additional requested evidence list
11 Dec 11	Reviewed filings concerning defense request to close hearing and defense request for witnesses
12 Dec 11	Telephone conference with counsel discussing defense closure request, defense objections to evidence and witnesses, and consideration of statements under penalty of perjury; telephone consultation with LTC Holzer regarding defense closure request; continued reviewing evidence at MDW
13 Dec 11	Telephone consultation with LTC Holzer regarding consideration of statements under penalty of perjury; continued reviewing evidence at MDW; issued IO's witness list; issued determination on defense request for closure; defense request that SFC Adkins be produced at hearing
14 Dec 11	Issued determinations concerning defense objections to government evidence, IO's evidence list, considerations of statements under penalty of perjury, request for reconsideration of denial of defense closure request, defense request for media exclusion and gag order, and effect of witness invocation of Article 31/Fifth Amendment rights on their availability; provided counsel LTC Holzer's advice regarding the effect of the invocation of Article 31/Fifth Amendment rights and on statements under penalty of perjury; provided revised list of witnesses to appear in person/by telephone/by statement under penalty of perjury; participated in telephone conference with counsel concerning witness availability and closure issues, determining that SFC Adkins, SGT Padgett, and CPT Keay would be produced in person and WO1 Balonek was not reasonably available and would be available by phone
15 Dec 11	Issued determinations regarding defense-requested witnesses and evidence; telephone consultation with legal advisor regarding R.C.M. 405(f)(11) and 405(a)(1)(C); provided notice to counsel of reconsideration of determinations concerning CPT Liebman, CPT Worseley, and CPT Critchfield; received government notice of

	classified hearing; provided draft Article 32 hearing script to counsel for review; participated in rehearsal of classified closure and opening proceedings; provided revised list of witnesses to appear in person/by telephone/by statement under penalty of perjury; issued determination as to defense request for reconsideration of closure request and request for media exclusion and gag order
16 Dec 11	First day of hearing; provided rights advisement to PFC Manning and answered voir dire questions by counsel; received defense request for recusal; informed counsel of seeking legal advisor's advice concerning request for recusal; considered and denied defense request for recusal; defense filed writs with Army Court of Criminal Appeals seeking a stay of proceedings and my recusal, which were denied; issued revised determinations as to defense requested witnesses
17 Dec 11	Second day of hearing; received defense request to consider sealed stipulation of expected testimony for Ms. heard testimony of SA Graham (telephonic), SA Robertson (telephonic), SA Mander (in person), SA Bettencourt (in person), SFC Madrid (telephonic), and CPT Lim (in person); issued revised determinations as to defense requested witnesses
18 Dec 11	Third day of hearing; discussed issue of proffered stipulation of expected testimony with counsel; heard testimony of CPT Fulton (in person) SGT Maderas (telephonic), Mr. Millman (telephonic), CPT Cherepko (telephonic), SFC Adkins (in person – invoked); WO1 Belonek (telephonic – invoked), SA Shaver (in person); conducted classified closure hearing
19 Dec 11	Fourth day of hearing; heard testimony of SA Shaver (in person) SPC Baker (in person); Mr. Johnson (in person); discussed issue of Ms. Showman's testimony, determined to reconsider defense request to close hearing for a portion of Ms. Showman's testimony; received defense assertion of communications-to-clergy privilege under M.R.E. 503 for chats with Mr. Lamo
20 Dec 11	Fifth day of hearing; received government's response to defense's M.R.E. 503 assertion; denied defense M.R.E. 503 assertion; heard testimony of Ms. Showman (telephonic); conducted unclassified closure hearing to reconsider defense's closure request and took 5 minutes of Ms. Showman's testimony while closed; heard testimony of SSG Bigelow (telephonic); SA Williamson (in person); SA Shaver (in person); SA Edwards (in person); Mr. Lamo (in person); parties agreed at end of day to do closing arguments at 1000 22

	December; issued reconsideration of closure determination concerning Ms. Showman's testimony
21 Dec 11	Sixth day of hearing; heard testimony of SGT Padgett (in person); CPT Keay (telephonic); reviewed evidence; drafted written response to defense assertion of communications-to-clergy privilege under M.R.E. 503 for chats with Mr. Lamo
22 Dec 11	Seventh day of hearing; heard closing statements by counsel; closed hearing; reviewed evidence
23 Dec 11	Reviewed evidence at MDW; received defense notice of evidence
3 Jan 12	Reviewed evidence; drafted IO Report
4 Jan 12	Reviewed evidence; drafted IO Report
5 Jan 12	Reviewed evidence; drafted IO Report
6 Jan 12	Reviewed evidence; drafted IO Report
9 Jan 12	Reviewed evidence; drafted IO Report
10 Jan 12	Reviewed evidence; drafted IO Report; drafted memorandum excluding the days between 23 Dec 11 and 3 Jan 12
11 Jan 12	Completed and submitted IO Report

Speedy Trial Attachment 60





REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
JOINT BASE MYER-HENDERSON HALL  
204 LEE AVENUE  
FORT MYER, VIRGINIA 22211-1199

IMND-MHH-ZA

3 Jan 2012

MEMORANDUM FOR RECORD

SUBJECT: Accounting of Excludable Delay under Rule for Courts-Martial 707(c) - United States v. PFC Bradley Manning

1. **PURPOSE.** The purpose of this memorandum is to provide a periodic accounting for any excludable delay under Rule for Courts-Martial (RCM) 707(c) in the above-referenced matter.
2. **EXCLUDABLE DELAY.** The period from 16 November 2011 up to and including 15 December 2011 is excludable delay under RCM 707(c).
3. **BASIS OF DELAY.** The period of excludable delay is reasonable based on the following extensions, defense requests, responses, and the facts and circumstances of this case:
  - a. Original Classification Authorities' (OCA) reviews of classified information.
  - b. OCA consent to disclose classified information.
  - c. Defense Request for Results of the Government's Classification Reviews by the OCA, dated 26 August 2010 (enclosed).
  - d. Government Request for Delay of Article 32 Investigation, dated 10 November 2011 (enclosed).
4. **PREVIOUS DELAYS.** This accounting of excludable delay is not intended to supersede any previous delays, but merely account for excludable delays from the previous accounting to the date of this memorandum.
5. I acknowledge and reviewed the defense request for speedy trial, dated 13 January 2011 (enclosed), and the renewed request for speedy trial, dated 25 July 2011 (enclosed).

Encls  
as

  
CARL R. COFFMAN, JR.  
COL, AV  
Commanding

CF: (wo/encls)  
1-Trial Counsel  
1-Defense Counsel

Speedy Trial Attachment 61

[Print](#) | [Close Window](#)**Subject:** RE: Bill of Particulars**From:** "Fein, Ashden CPT USA JFHQ-NCR/MDW SJA"  
<Ashden.Fein@jfhqncr.northcom.mil>**Date:** Mon, Feb 27, 2012 8:28 am**To:** "Lind, Denise R COL MIL USA OTJAG" <denise.r.lind.mil@mail.mil>

"Matthew kemkes" <matthew.kemkes@us.army.mil>, "Bouchard, Paul R CPT USARMY (US)" <paul.r.bouchard.mil@mail.mil>, "Santiago, Melissa S CW2 USARMY (US)" <melissa.s.santiago@us.army.mil>, "Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA" <JoDean.Morrow@jfhqncr.northcom.mil>, "Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA"

**Cc:** <Angel.Overgaard@jfhqncr.northcom.mil>, "Whyte, Jeffrey H. CPT USA JFHQ-NCR/MDW SJA" <Jeffrey.Whyte@jfhqncr.northcom.mil>, "Ford, Arthur D. WO1 USA JFHQ-NCR/MDW SJA" <Arthur.Ford@jfhqncr.northcom.mil>, "Jefferson, DaShawn MSG MIL USA OTJAG" <dashawn.jefferson.mil@mail.mil>, "Williams, Patricia CIV JFHQ-NCR/MDW SJA" <Patricia.Williams@jfhqncr.northcom.mil>, <coombs@armycourt martialdefense.com>

COL Lind,

The United States strongly disagrees with the defense's proposition that "the parties and the Court" agreed at the time that the Government would have one week to respond. During the initial telephonic RCM 802 conference, the United

States stated that it would evaluate the defense's motions and get back to the Court as soon as possible on whether one week was sufficient to respond. Pursuant to that commitment, the United States responded via email on 15 February 2012 at 1024 hours requesting three weeks and recounting that during the telephonic RCM 802 conference, the United States did not commit to reply within one week.

This email was received by all the parties. Unfortunately, because of the email security problems, the United States did not receive the Court's subsequent email which stated the request was denied. Without that email, the United States was not aware that its request was denied nor that we were required to submit a continuance until the arraignment on 23 February 2012.

As with all motions, the United States intends to answer the defense's motion for a bill of particulars. Throughout this case, the United States continuously endeavors to move the case forward as fast as possible, while remaining cognizant of the litany of security issues that are involved with such a mass compromise of classified information, as evidenced by the charge sheet. The United States requests, that rather than cutting corners with unusual requests or speeding forward with motions outside of your schedule, that all parties adhere to your schedule and subsequent updates to the schedule. This will allow for proper planning to have security reviews of all our documents and to ensure that no additional spillages occur.

Additionally, on Friday afternoon, the prosecution met with the Department of Justice Litigation Security Group to discuss and understand how the federal courts administratively process filings and other related matters in cases dealing with classified information, including the use of CSOs. We will have

a draft of the protective order and procedures ready to share with the defense this week, in order for us to work together to hopefully find a common ground.

v/r  
CPT Fein

-----Original Message-----

From: coombs@armycourt martialdefense.com  
[mailto:coombs@armycourt martialdefense.com]  
Sent: Saturday, February 25, 2012 12:57 PM  
To: Lind, Denise R COL MIL USA OTJAG  
Cc: Matthew kemkes; Bouchard, Paul R CPT USARMY (US); Santiago, Melissa S CW2 USARMY (US); Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA; Overgaard, Angel M. CPT USA JFHQ-NCR/MDW SJA; Whyte, Jeffrey H. CPT USA JFHQ-NCR/MDW SJA; Ford, Arthur D. WO1 USA JFHQ-NCR/MDW SJA; Fein, Ashden CPT USA JFHQ-NCR/MDW SJA; Jefferson, DaShawn MSG MIL USA OTJAG; Williams, Patricia CIV JFHQ-NCR/MDW SJA; Fein, Ashden CPT USA JFHQ-NCR/MDW SJA  
Subject: Bill of Particulars

COL Lind,

As you know, the Defense submitted a Motion for Particulars on 14 February 2012. The parties and the Court agreed at that time that the Government would have one week to respond. Because of the Government's email glitches, the Government now has over three weeks to respond to this motion. Consistent with its responses over the past year and a half, the Defense anticipates that the Government will oppose some, or all, of the Defense's request for particulars.

Should you order that such particulars must be given to the Defense, the Government will likely request an extension of time to provide those particulars. Given that the Government will have over three weeks to address this issue, the Defense would request that you direct the Government to be immediately prepared to release the particulars if you rule in favor of the Defense. In other words, if the Court deems that particulars should be provided, the Government should not have any additional time to provide them. The Defense needs such particulars to be able to prepare its case and in order to finalize instructions for the various offenses. The particulars sought by the Defense do not require the Government to coordinate with multiple external agencies, search files, or engage in complex legal research. Rather, the particulars simply flesh out the charges that the Government has preferred against my client, and that it has been preparing to prosecute for the past 18 months. While I realize this request may be slightly unusual, the Defense believes that the Government had already received a windfall owing to the email situation; it should not be able to continue to press for extensions of responses to straightforward motions. Any such extension would require the trial calendar to be pushed further out, thereby affecting my client's right to a speedy trial.

V/R  
David

David E. Coombs, Esq.  
Law Office of David E. Coombs  
11 South Angell Street, #317  
Providence, RI 02906  
Toll Free: 1-800-588-4156  
Local: (508) 689-4616  
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coombs@armycourt martialdefense.com  
www.armycourt martialdefense.com

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## Speedy Trial Attachment 62

-----Original Message-----

From: Fein, Ashden MAJ USARMY MDW (US) [mailto:ashden.fein.mil@mail.mil]

Sent: Thursday, July 26, 2012 7:49 PM

To: David Coombs

Cc: 'Hurley, Thomas F MAJ OSD OMC Defense'; Tooman, Joshua J CPT USARMY (US); 'Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA'; Overgaard, Angel M CPT USARMY (US); Whyte, Jeffrey H CPT USARMY (US); 'von Elten, Alexander S. CPT USA JFHQ-NCR/MDW SJA'; Ford, Arthur D Jr CW2 USARMY (US)

Subject: Article 13 Emails

David,

In preparation for the upcoming Article 13 motion, the prosecution began reviewing emails yesterday from members of the Quantico brig staff and the chain of command. The prosecution found some emails that are obviously material to the preparation of the defense for Article 13 purposes. In an effort to get these emails to you as soon as possible, we intend to produce them tomorrow and send them to you via email so that you have a copy immediately. We will also produce them according to our normal process. We estimate there are approximately 60 emails.

V/r

Ashden

Speedy Trial Attachment 63



-----Original Message-----

From: David Coombs [mailto:coombs@armycourtmartrialdefense.com]  
Sent: Friday, July 27, 2012 12:54 AM  
To: Lind, Denise R COL USARMY (US)  
Cc: 'Hurley, Thomas F MAJ OSD OMC Defense'; Tooman, Joshua J CPT USARMY (US); 'Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA'; Overgaard, Angel M CPT USARMY (US); Whyte, J Hunter CPT USARMY (US); 'von Elten, Alexander S. CPT USA JFHQ-NCR/MDW SJA'; Ford, Arthur D Jr CW2 USARMY (US); Fein, Ashden MAJ USARMY MDW (US)  
Subject: RE: Article 13 Emails  
Importance: High

Ma'am,

Please see the email below. MAJ Fein just notified the Defense of the existence of 60 emails that the Government determined were material to the preparation of the defense for the Article 13 motion which, as you know, is due tomorrow. At 2115, MAJ Fein sent the Defense copies of the emails. The Defense cannot understand why it is getting these emails the night before its motion is due. The Defense had requested any documentation pertaining to PFC Manning's confinement while at Quantico over a year and a half ago, in a discovery request dated 8 December 2010.

After quickly reviewing the emails sent by MAJ Fein, it is clear that we have a problem. The Defense had previous knowledge that there had been an order given by the Security Battalion Commander, Col. Robert Oltman, to keep PFC Manning in maximum custody and under prevention of injury status indefinitely. This order was given on 13 January 2011 and was made in front of the Brig commander and staff. Capt. William Hocter and Capt. Kevin Moore witnessed this order and would be testifying to this fact during the motions hearing. The emails that the Defense has just received reveal a conspiracy at much higher levels.

The email traffic shows that LtGen. George Flynn was directly involved in the custody status of PFC Manning. The Quantico Base Commander, Col. Daniel Choike, and Col. Robert Oltman seem to have been simply executing LtGen. Flynn's directives. The emails show how the entire chain of command from LtGen. Flynn down to the NCO leadership in the Brig was involved in reporting on every issue dealing with PFC Manning in order to support the decision to maintain him in his custody status. The emails also show that the Quantico Staff Judge Advocate, LtCol. Christopher Greer, was aware of the issue and supported the chain of command's efforts. In addition to this, the Defense has learned many more specifics about the nature of PFC Manning's confinement conditions which support his Article 13 claim.

This new information will result in a need for additional witnesses. And, as is no doubt apparent, it will require additional time to brief. As you know, I have already completed what I believed

was the Defense's Article 13 motion and have sent the Court and the Government the attachments.

As I previously informed the Court and the Government, I will be out of the office from 27 July through 9 August for family reasons. At this point, I am unclear on how to proceed. I would greatly appreciate guidance from the Court in this respect.

v/r

David  
David E. Coombs, Esq.  
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11 South Angell Street, #317  
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Local: (508) 689-4616  
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coombs@armycourtartialdefense.com  
www.armycourtartialdefense.com

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Speedy Trial Attachment 64

## David Coombs

---

**From:** Fein, Ashden MAJ USARMY MDW (US) <ashden.fein.mil@mail.mil>  
**Sent:** Friday, July 27, 2012 12:35 PM  
**To:** David Coombs  
**Cc:** 'Hurley, Thomas F MAJ OSD OMC Defense'; Tooman, Joshua J CPT USARMY (US); 'Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA'; Overgaard, Angel M CPT USARMY (US); Whyte, J Hunter CPT USARMY (US); 'von Elten, Alexander S. CPT USA JFHQ-NCR \MDW SJA'; Ford, Arthur D Jr CW2 USARMY (US)  
**Subject:** RE: Update

David,

2. No objection.
3. We received the emails with the original documents approximately six months ago and prioritized their review for Giglio/Jencks material based on potential witnesses, which is why we reviewed the material this week.

v/r  
Ashden

-----Original Message-----

**From:** David Coombs [<mailto:coombs@armycourt martialdefense.com>]  
**Sent:** Friday, July 27, 2012 12:29 PM  
**To:** Fein, Ashden MAJ USARMY MDW (US)  
**Cc:** 'Hurley, Thomas F MAJ OSD OMC Defense'; Tooman, Joshua J CPT USARMY (US); 'Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA'; Overgaard, Angel M CPT USARMY (US); Whyte, J Hunter CPT USARMY (US); 'von Elten, Alexander S. CPT USA JFHQ-NCR \MDW SJA'; Ford, Arthur D Jr CW2 USARMY (US)  
**Subject:** RE: Update

Ashden,

1. Thank you.
2. This is referring to the posting of the motion on my blog. The Government did not indicate whether it intended to file any objection to the posting.
3. If I understand your email on the 84 emails, you just started looking at them on Wednesday. When did the Government first receive the emails from Quantico?

Best,  
David

David E. Coombs, Esq.  
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11 South Angell Street, #317  
Providence, RI 02906  
Toll Free: 1-800-588-4156  
Local: (508) 689-4616  
Fax: (508) 689-9282

Speedy Trial Attachment 65

From: Fein, Ashden MAJ USARMY MDW (US) [mailto:ashden.fein.mil@mail.mil]  
Sent: Friday, July 27, 2012 8:22 AM  
To: Lind, Dennis R COL USARMY (US)  
Cc: David Coombs; 'Hurley, Thomas F MAJ OSD OMC Defense'; Tooman, Joshua J CPT USARMY (US); 'Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA'; Overgaard, Angel M CPT USARMY (US); Whyte, J Hunter CPT USARMY (US); 'von Elten, Alexander S. CPT USA JFHQ-NCR/MDW SJA'; Ford, Arthur D Jr CW2 USARMY (US)  
Subject: RE: Article 13 Emails

Ma'am,

Below is the government response to the below email from the defense:

1. On 8 December 2010, the defense requested "[a]ny and all documents or observation notes by employees of the Quantico confinement facility relating to PFC Bradley Manning." The United States produced all documentation from the Quantico Brig either as we received it or at the end of the accused's pretrial confinement at Quantico. In an effort to preserve all records involving the accused, the prosecution requested Quantico preserve all documentation and their emails. The purpose of this preservation request was to ensure the accused's right to a fair trial by preserving any emails for future litigation concerning the discoverability of the emails and/or for the prosecution to conduct a Giglio and Jencks (RCM 914) check of the emails. On Wednesday, the prosecution started reviewing the emails for potential impeachment evidence or Jencks material, and during that review found 84 emails which we deemed obviously material to the preparation of the defense for Article 13 purposes. Within 24 hours, the United States notified the defense and sent the emails last night.
2. The United States objects to the defense's characterization of the emails showing a conspiracy, rather the emails show the possible extent, if any, of USMC chain of command's involvement, in the accused's pretrial confinement.
3. This motions hearing is not scheduled until the end of August. Over the past few months, the defense has been preparing its over 100 page motion and the government has a reply due on 17 August 2012. Understanding Mr. Coombs will be out of the office from 27 July to 9 August, the United States still sees no reason why the defense will not have adequate time to prepare its Article 13 motion, and especially since this the majority of these emails appear to only bolster the defense's current argument, as proffered in the Article 13 witness list litigation. Additionally, the military defense counsel can assist Mr. Coombs with interviewing other potential witnesses, if the defense chooses to go down that path.

v/r

MAJ Fein

Subject: RE: Update

From: "Fein, Ashden MAJ USARMY MDW (US)" <ashden.fein.mil@mail.mil>

Date: Fri, July 27, 2012 12:34 pm

To: David Coombs <coombs@armycourt martialdefense.com>

Cc: "Hurley, Thomas F MAJ OSD OMC Defense" <thomas.hurley@osd.mil>, "Tooman, Joshua J CPT USARMY (US)" <joshua.j.tooman.mil@mail.mil>, "Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA" <JoDean.Morrow@jfhqncr.northcom.mil>, "Overgaard, Angel M CPT USARMY (US)" <angel.m.overgaard.mil@mail.mil>, "Whyte, J Hunter CPT USARM (US)" <jeffrey.h.whyte.mil@mail.mil>, "von Elten, Alexander S. CPT USA JFHQ-NCR/MDW SJA" <Alexander.VonElten@jfhqncr.northcom.mil>, "Ford, Arthur D Jr CW2 USARMY (US)" <arthur.d.ford.mil@mail.mil>

David,

2. No objection.

3. We received the emails with the original documents approximately six months ago and prioritized their review for Giglio/Jencks material based on potential witnesses, which is why we reviewed the material this week.

v/r

Ashden

Speedy Trial Attachment 66



From: David Coombs [mailto:coombs@armycourtartialdefense.com]

Sent: Friday, July 27, 2012 8:47 AM

To: 'Fein, Ashden MAJ USARMY MDW (US)'; 'Lind, Denise R COL USARMY (US)'

Cc: 'Hurley, Thomas F MAJ OSD OMC Defense'; 'Tooman, Joshua J CPT USARMY (US)';

'Morrow III, JoDean, CPT USA JFHQ-NCR/MDW SJA'; 'Overgaard, Angel M CPT USARMY

(US)'; 'Whyte, J Hunter CPT USARMY (US)'; 'von Elten, Alexander S. CPT USA JFHQ-

NCR\MDW SJA'; 'Ford, Arthur D Jr CW2 USARMY (US)'

Subject: RE: Article 13 Emails

Ma'am,

I have attached one email sent to us late last night by the Government. This email is from the Quantico Base Commander, Col. Daniel Choike, to the Security Battalion Commander, Col. Robert Oltman. Whether this email indicates a conspiracy or just "context" really does not matter at this point (that will be the subject of argument). What matters is that 84 emails were dumped on the Defense the night before the Article 13 motion was due, after I had already sent the Defense attachments and just prior to leaving the country for family reasons.

The Government avoids addressing the two issues that I raised. First, I need additional time to incorporate these emails into my motion. The Government seems to suggest that the emails simply support the arguments that I was in the process of already making, (i.e. I was on the right track). However, these emails do much more than simply support our argument. The emails change the basis of the Defense's argument. When does the Government propose that the Defense incorporate these emails into our motion? Based upon the Government's email it would seem that it would have us do this today.

Second, due to the nature of these emails, the Defense believes that additional witnesses will be needed for the motion. The question is not necessarily just interviewing potential witnesses, but likely litigating with the Government over whether the witnesses will be produced.

How the Government could have waited so long to look at these emails which should have been produced as part of its discovery obligations is beyond me. The fact that the Government is now trying to hold the Defense to a time line of today when the need for a delay is due to their lack of diligence is unbelievable. The Defense has repeated since referral its concern that information would be dumped on us on the eve of trial. This is an perfect example of the Defense's concerns coming to fruition.

v/r

David

David E. Coombs, Esq.  
Law Office of David E. Coombs  
11 South Angell Street, #317  
Providence, RI 02906  
Toll Free: 1-800-588-4156  
Local: (508) 689-4616  
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coombs@armycourtartialdefense.com  
www.armycourtartialdefense.com

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Speedy Trial Attachment 67

## David Coombs

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**From:** Fein, Ashden MAJ USARMY MDW (US) <ashden.fein.mil@mail.mil>  
**Sent:** Friday, September 14, 2012 8:41 PM  
**To:** Lind, Denise R COL USARMY (US)  
**Cc:** David Coombs; Hurley, Thomas F MAJ USARMY (US); Tooman, Joshua J CPT USARMY (US); Morrow, JoDean (Joe) III CPT USARMY USAMDW (US); Overgaard, Angel M CPT USARMY (US); Whyte, J Hunter CPT USARMY (US); von Elten, Alexander S (Alec) CPT USARMY (US); Ford, Arthur D Jr CW2 USARMY (US); Williams, Patricia Ann (Trisha Williams-Butler) CIV USARMY USAMDW (US); Jefferson, Dashawn MSG USARMY (US); Moore, Katrina R SFC USARMY (US)  
**Subject:** Government Filing  
**Attachments:** 120914-Government Ex Parte RCM 701(g)(2) (DHS)\_Redacted.pdf; 120914-Government 505(g)(2) Motion for DoS.docx; 120914-Government 505(g)(2) Motion for DoS.pdf; 120914-Government 505(g)(2) Motion for DoS Encl 5 (Jorns).pdf; 120914-Government Disclosure to Defense (CIA and DoS).pdf; 120914-Government Disclosure to Defense (CIA and DoS) Encl.pdf; 120914-Government Disclosure to Defense (CIA and DoS).doc; 120914-Government Notice to the Court (ODNI).pdf; 120914-Government Notice to the Court (ODNI).docx; 120914-Supplement to 505(g)(2) Motion for FBI File.docx; 120914-Supplement to 505(g)(2) Motion for FBI File.pdf

Ma'am,

Attached are the following government filings:

1. Government Ex Parte RCM 701(g)(2) Motion for a DHS document. The motion and its enclosures are being submitted via NIPR in a separate email. Attached to this email is a redacted version for the defense.
2. Government MRE 505(g)(2) Motion for DOS Information. The motion and its enclosures are being submitted via NIPR in this email. Two of the enclosures are being submitted via NIPR in a separate email.
3. Government MRE 505(g)(2) Motion for CIA Information. The motion and its enclosures are being submitted via SIPR and hand delivery on Monday.
4. Government Notice to the Court for Government MRE 505(g)(2) Motion for DOS and CIA Information, which includes the unclassified and redacted version of the CIA motion.
5. Government Notice to the Court for ODNI Information.
6. Government Supplemental Filing for MRE 505(g)(2) Filing for FBI Investigative File. The supplement is attached. The classified enclosures are being submitted ex parte via SIPR and hand delivery on Monday.

v/r  
MAJ Fein

Speedy Trial Attachment 68

UNITED STATES

v.

MANNING, Bradley E., PFC

U.S. Army, [REDACTED]

Headquarters and Headquarters Company, U.S.

Army Garrison, Joint Base Myer-Henderson Hall,

Fort Myer, VA 22211

**DEFENSE DISCOVERY  
REQUEST**

DATED: 9 July 2012

1. In accordance with the Rules for Courts-Martial and the Military Rules of Evidence, Manual for Courts-Martial, United States, 2008, Article 46, Uniform Code of Military Justice, and other applicable law, request for discovery is hereby made for the charged offenses in the case of United States v. Bradley E. Manning.

2. The Defense requests that the Government provide a copy of the video referenced in Bates Number 00042936. According to LCPL J.E. Miller, the Quantico Brig recorded an incident where the guards had to assist in freeing PFC Manning from the suicide smock that he was wearing.

3. Previously, the Defense requested copies of all audio and video footage of PFC Manning while in confinement. See Defense Discovery Request dated 15 November 2010, para. 2(e). The Defense alerted the Government that its request was a continuing request. *Id.* at para. 4. The Defense requests that the Government ensure that it has produced all audio and video of PFC Manning while in confinement.

4. It is understood that this is a continuing request.

5. A copy of this request was served on Trial Counsel by email on 9 July 2012.

  
DAVID EDWARD COOMBS  
Civilian Defense Counsel

Speedy Trial Attachment 69



REF ID: A66666

DEPARTMENT OF THE ARMY  
U S ARMY MILITARY DISTRICT OF WASHINGTON  
210 A STREET  
FORT LESLEY J. MCNAIR, DC 20319-5013

ANJA-CL

13 September 2012

MEMORANDUM FOR Mr. David E. Coombs, Civilian Defense Counsel

SUBJECT: Response to Defense Request for Discovery, dated 9 July 2012 United States v. PFC Bradley Manning

1. The United States responds herein to the Defense Request for Discovery dated 9 July 2012. The United States acknowledges its requirements under Article 46, UCMJ, the Rules for Courts-Martial, and relevant case law.

2. Discovery Response.

a. Discovery Request, paragraph 2.

**RESPONSE:** The Quantico video does not exist. The United States conducted a search but could not locate the video. See Enclosure 1, Enclosure 2.

b. Discovery Request, paragraph 3.

**RESPONSE:** The Prosecution has provided all matters requested that are in the Government's possession and understands its continuing obligation to provide information responsive to this request.

3. The point of contact is the undersigned.

ALEXANDER VON ELTEN  
CPI, JA  
Assistant Trial Counsel

Enclosures

1. CWO2 Barnes Statement dated 13 August 2012
2. CWO2 Barnes Statement dated 12 September 2012



Speedy Trial Attachment 70

## David Coombs

---

**From:** Fein, Ashden MAJ USARMY MDW (US) <ashden.fein.mil@mail.mil>  
**Sent:** Friday, September 14, 2012 8:41 PM  
**To:** Lind, Denise R COL USARMY (US)  
**Cc:** David Coombs; Hurley, Thomas F MAJ USARMY (US); Tooman, Joshua J CPT USARMY (US); Morrow, JoDean (Joe) III CPT USARMY USAMDW (US); Overgaard, Angel M CPT USARMY (US); Whyte, J Hunter CPT USARMY (US); von Elten, Alexander S (Alec) CPT USARMY (US); Ford, Arthur D Jr CW2 USARMY (US); Williams, Patricia Ann (Trisha Williams-Butler) CIV USARMY USAMDW (US); Jefferson, Dashawn MSG USARMY (US); Moore, Katrina R SFC USARMY (US)  
**Subject:** Government Filing  
**Attachments:** 120914-Government Ex Parte RCM 701(g)(2) (DHS)\_Redacted.pdf; 120914-Government 505(g)(2) Motion for DoS.docx; 120914-Government 505(g)(2) Motion for DoS.pdf; 120914-Government 505(g)(2) Motion for DoS Encl 5 (Jorns).pdf; 120914-Government Disclosure to Defense (CIA and DoS).pdf; 120914-Government Disclosure to Defense (CIA and DoS) Encl.pdf; 120914-Government Disclosure to Defense (CIA and DoS).doc; 120914-Government Notice to the Court (ODNI).pdf; 120914-Government Notice to the Court (ODNI).docx; 120914-Supplement to 505(g)(2) Motion for FBI File.docx; 120914-Supplement to 505(g)(2) Motion for FBI File.pdf

Ma'am,

Attached are the following government filings:

1. Government Ex Parte RCM 701(g)(2) Motion for a DHS document. The motion and its enclosures are being submitted via NIPR in a separate email. Attached to this email is a redacted version for the defense.
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3. Government MRE 505(g)(2) Motion for CIA Information. The motion and its enclosures are being submitted via SIPR and hand delivery on Monday.
4. Government Notice to the Court for Government MRE 505(g)(2) Motion for DOS and CIA Information, which includes the unclassified and redacted version of the CIA motion.
5. Government Notice to the Court for ODNI Information.
6. Government Supplemental Filing for MRE 505(g)(2) Filing for FBI Investigative File. The supplement is attached. The classified enclosures are being submitted ex parte via SIPR and hand delivery on Monday.

v/r  
MAJ Fein

UNITED STATES OF AMERICA )

v. )

Manning, Bradley E. )  
PFC, U.S. Army, )  
HHC, U.S. Army Garrison, )  
Joint Base Myer-Henderson Hall )  
Fort Myer, Virginia 22211 )

GOVERNMENT RESPONSE TO  
DEFENSE SUPPLEMENT TO  
MOTION FOR JUDICIAL NOTICE  
AND ADMISSION OF PUBLIC  
STATEMENTS

27 September 2012

**RELIEF SOUGHT**

COMES NOW the United States of America, by and through undersigned counsel, and respectfully requests this Court deny, in part, the Defense Supplement to Motion for Judicial Notice and Admission of Public Statements. The defense has repeated the same arguments it made for admission of public statements under Military Rule of Evidence (MRE) 801(d)(2)(B) and MRE 801(d)(2)(D). However, the United States does not object to the admission of the majority of the proffered statements under certain circumstances, described in detail below.

**BURDEN OF PERSUASION AND BURDEN OF PROOF**

As the moving party, the defense has the burden of persuasion on any factual issue the resolution of which is necessary to decide the motion. *Manual for Courts-Martial (MCM), United States*, Rule for Courts-Martial (RCM) 905(c)(2) (2012). The burden of proof is by a preponderance of the evidence. RCM 905(c)(1).

**FACTS**

The United States stipulates to the facts set forth in ¶¶ 3 and 4 of the defense supplement.

The United States stipulates to the admissibility of the statement made by Pentagon Press Secretary Geoff Morrell and Special Envoy for Closure of the Guantanamo Detention Facility Ambassador Daniel Fried, assuming the Court finds the statement relevant and not misleading or confusing during presentencing. See Attachment A to the Defense Supplement. Portions of the statement qualify as an exception to hearsay under MRE 803(8)(A), specifically as the statement of the Department of Defense.

The United States stipulates to the admissibility of the statement made by President Barack Obama on 27 July 2010, assuming the Court finds the statement relevant and not misleading or confusing during presentencing. See Attachment B to the Defense Supplement. Portions of the statement qualify as an exception to hearsay under MRE 803(8)(A), specifically as the statement of the Office of the President.

The United States stipulates to the admissibility of the statement made by former Secretary of Defense Robert M. Gates in a letter dated 16 August 2010, assuming the Court finds the statement relevant and not misleading or confusing during presentencing. See Attachment C

to the Defense Supplement. Portions of the statement qualify as an exception to hearsay under MRE 803(8)(A), specifically as the statement of the Department of Defense.

### **WITNESSES/EVIDENCE**

The United States requests this Court consider the previous pleadings filed by the parties on this issue, Appellate Exhibits CCXXXVII (Defense Motion) and CCXXXVIII (Government Response).

### **LEGAL AUTHORITY AND ARGUMENT**

The defense moves this Court, under multiple theories, to admit the statements of various public officials during the presentencing portion of the court-martial. For the reasons set forth below, most of the statements are not admissible during the presentencing portion of the court-martial, unless the rules of evidence are relaxed under Rule for Courts-Martial 1001(c)(3).

#### **I. THE STATEMENTS ARE NOT ADMISSIBLE UNDER MRE 801(d)(2)(B) or 801(d)(2)(D).**

Hearsay is “a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.” MRE 801(c). Admissions by party-opponents are exempted from hearsay in five situations. See MRE 801(d)(2). Under MRE 801(d)(2)(B), an admission by a party-opponent is not hearsay if the statement is offered against a party and the party has manifested the party’s adoption or belief in its truth. See MRE 801(d)(2)(B). Under MRE 801(d)(2)(D), an admission by a party-opponent is not hearsay if the statement is offered against a party and is a statement by the party’s agent or servant concerning a matter within the scope of the agency or employment while the agency or employment relationship continues. See MRE 801(d)(2)(D).

The defense argues that the proffered statements are admissible under MRE 801(d)(2)(B) or MRE 801(d)(2)(D). See Def. Supp. at 4-7. In the interests of judicial economy and focusing the issues, the United States does not deny that the statements were made for the purposes of taking judicial notice. However, the defense has offered no compelling case law to support the proposition that the statements made by public officials in this case qualify as either the adoptive admission of a party-opponent under MRE 801(d)(2)(B) or the vicarious admission of a party-opponent under MRE 801(d)(2)(D).

With respect to the admissibility of the statements under MRE 801(d)(2)(B), every case cited by the defense is a variable of the same basic fact pattern—the defendant seeks to use the admission of the prosecutorial arm of the government against the prosecution in a later case. See *United States v. Morgan*, 581 F.2d 933, 938 (D.C. Cir. 1978) (holding that where the prosecution manifested its belief in the truth of an out-of-court statement, that statement could be introduced into evidence against the prosecution); *United States v. Kattar*, 840 F.2d 118, 131 (1st Cir. 1988) (“The Justice Department here has, as clearly as possible, manifested its belief in the substance of the contested documents; it has submitted them to other courts to show the truth of the matter asserted contained therein.”); *United States v. Salerno*, 937 F.2d 797, 811-12 (2d Cir. 1991)

(holding that government's jury arguments in another case should have been admitted as admissions of a party-opponent). The reasoning behind the *Morgan* line of cases is clear. If the prosecution has manifested its belief in the truth of a statement in a court proceeding or judicial document, the statement should in fairness be admissible against the government when it takes a contrary position. In this case, the prosecution has neither manifested its belief in any of these "statements," nor has any other prosecutorial entity adopted these statements in a related or unrelated matter.

As for the admissibility of the proffered statements under MRE 801(d)(2)(D), the defense relies heavily on one single district court civil case. See Def. Supp. at 4; *United States v. American Tel. & Tel. Co.*, 498 F. Supp. 353 (D.D.C. 1980). In *American Tel. & Tel.*, the court admitted the statements made by officials of Executive Branch agencies of the United States government at proceedings before the Federal Communications Commission (FCC) in a telephone antitrust action. See *American Tel. & Tel.*, 498 F. Supp. at 356. The court referred back to a previous opinion in the case related to discovery, wherein the court specifically found that all Executive Branch agencies, departments, and subdivisions comprised the plaintiff in the case because antitrust laws "constitute a means for protecting the economic interests of the citizens of this country, not infrequently on a national scale...." *Id.* at 357 (citing *United States v. American Tel. & Tel. Co.*, 461 F. Supp. 1314, 1333).

The defense argues that because a large number of agencies were affected by leaks occasioned by the accused, the proffered statements of government officials in various forums should be treated as the admission of an agent or servant of the *entire* government, admissible in a court of law for the truth of the matter asserted. See Def. Supp. at 5. The defense argument has no merit. The statements in *American Tel. & Tel.* were made by officials of Executive Branch agencies of the government at proceedings before the FCC, the federal agency specifically responsible for the regulation of interstate and international communications by radio, television, wire, satellite and cable in all 50 states, the District of Columbia and the U.S. territories.<sup>1</sup> In contrast, none of the proffered statements of officials in this case were made before any type of proceeding, judicial or otherwise. Some of the statements were made in the midst of press conferences convened to address completely unrelated topics. See Attachments D and E to the Defense Supplement. Others, like the statement of Representative Conyers during a hearing before the House Judiciary Committee, could hardly be characterized as a statement by an official with the ability to "bind the sovereign" as the defense asserts. Def. Supp. at 6. No court – civil or criminal – has extended MRE 801(d)(2)(D) and its federal equivalent as far as the court in *American Tel. & Tel.* See, e.g., *Kattar*, 840 F.2d at 130-31 ("Whether or not the entire federal government in all its capacities should be deemed a party-opponent in criminal cases...the Justice Department certainly should be considered such."). The defense argument extends even beyond the limits of *American Tel. & Tel.* because it claims all government actors, including those outside proceedings, are party-opponents. Accordingly, this Court should decline to adopt the defense argument and should adopt the position of the vast majority of courts who have examined this issue. See AE CCXXXVIII (discussing *United States v. Kampiles* line of cases).

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<sup>1</sup> Federal Communications Commission, at <http://www.fcc.gov/whatwedo> (last visited Sep. 27, 2012).

II. PUBLISHED NEWSPAPER ARTICLES ARE NOT ADMISSIBLE UNDER THE BUSINESS RECORDS EXCEPTION OR THE RESIDUAL HEARSAY RULE.

The defense argues that the proffered statements, appearing in sources of news, are admissible under MRE 803(6) and MRE 807.<sup>2</sup> However, the defense has cited no case in which a court has admitted published newspaper articles under the business records exception to the hearsay rule. Instead, the defense cites *United States v. Reese*, in which the court approved the admission of a hospital scrapbook containing newspaper clippings under Federal Rule of Evidence 803(6). See *United States v. Reese*, 568 F.2d 1246 (6th Cir. 1977). In *Reese*, the “business record” was not the newspapers themselves, but the hospital’s scrapbook, admitted through the testimony of a hospital employee. *Id.* at 1252. As such, the case does not support the proposition that newspaper articles qualify for admission under the business records exception. Further, the Government’s own research in this area generally supports the proposition that a newspaper never qualifies as an exception to hearsay under FRE or MRE 803(6). See, e.g., *United States v. Baker*, 432 F.3d 1189, 1212 n.23 (11th Cir. 2005) (newspaper article regarding identity of gunmen inadmissible as double hearsay of reporter’s account of what eyewitnesses stated); *Horta v. Sullivan*, 4 F.3d 2, 8 (1st Cir. 1993) (newspaper article contained double hearsay and was inadmissible); *Larez v. City of Los Angeles*, 946 F.2d 630, 642 (9th Cir. 1991) (“As the reporters never testified nor were subjected to cross-examination, their transcriptions of Gates’s statements involve a serious hearsay problem.”); *May v. Cooperman*, 780 F.2d 240, 262 (3d Cir. 1985) (Becker, J., dissenting on other grounds) (“Ordinarily, when offered to prove the truth of the matters stated therein, newspaper articles are held inadmissible as hearsay.”). The lack of case law in this area is indicative of the simple notion that a newspaper article is more like the product of the newspaper business itself, rather than a record kept for the purpose of conducting the business.

The defense also argues that this Court should admit the newspaper articles under the residual hearsay exception. See Def. Supp. at 8. Like the argument for admissibility of the proffered statements under MRE 803(6), the defense relies on a single case for the proposition that newspaper articles in this case should be admitted under the MRE 807. See *id.*; *Dallas County v. Commercial Union Assur. Co.*, 286 F.2d 388 (5th Cir. 1961). Aside from the fact that the *Dallas County* case predates the federal residual hearsay exception, none of the circumstances which prompted that court to admit a newspaper article are present in this case. The court admitted the article because it was “necessary and trustworthy, relevant and material....” *Dallas County*, 286 F.2d at 398. It was the only evidence of a material fact—namely, that a fire had occurred in a church more than 50 years earlier. *Id.* Under the military’s residual hearsay exception, a statement is admissible when it is trustworthy and “(A) the statement is offered as evidence of a material fact; (B) the statement is more probative on the point for which it is offered than other evidence which the proponent can procure through

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<sup>2</sup> The defense in this section has failed to adequately address the Court’s concerns with respect to the problems posed by the admission of statements within newspaper articles. The defense position, raised for the first time during oral argument at the last Article 39(a) session, appeared to be that the first level of hearsay was satisfied by the business records exception and the second level of hearsay was satisfied by the residual hearsay exception. Instead of addressing the problem posed by double hearsay, the defense simply argues that “newspaper articles” are admissible under MRE 803(6) and MRE 807. See Def. Supp. at 7-9.

reasonable efforts; and (C) the general purposes...and the interests of justice will best be served by admission of the statement into evidence.” MRE 807.

In this case, many of the statements proffered by the defense are neither “more probative” than other available evidence of lack of damage or harm, nor relevant to damage at all. As just one example, Attachment F to the Defense Supplement contains three separate internet news articles offered to prove that Secretary Clinton stated that the State Department cables show “diplomats doing the work of diplomacy.” See Attachment F to the Defense Supplement. Aside from the obvious issues present when each article in Attachment F quotes Secretary Clinton differently, and it is unclear whether the “reporter” was even present for the remarks, the quote is not probative of any issue relevant to presentencing. If anything, Secretary Clinton is describing the content of diplomatic cables leaked through WikiLeaks – what the cables purport to describe – rather than the lack of harm resulting from the leak of the cables in the first place. Accordingly, the newspaper articles and the proffered statements should not be admitted by this Court under MRE 807.

### III. THE PROFFERED STATEMENTS ARE NOT ADMISSIBLE UNDER MRE 803(8).

The defense argues that “official press releases and reports [*sic*] Congressional hearings are admissible under M.R.E. 803(8).” Def. Supp. at 9. Although the defense does not specify which subparagraph under MRE 803(8) they are seeking to admit the proffered statements, the United States concedes that the statements made in Attachments A, B, and C to the Defense Supplement are likely admissible under MRE 803(8)(A), assuming the Court finds the statements relevant and determines that their relevance is not substantially outweighed by the danger of confusion and misleading the members. See MREs 401 and 403; ¶ IV *infra*. However, the proffered statements in Attachments D, E, and H<sup>3</sup> to the Defense Supplement are not admissible under MRE 803(8)(A) because they either do not constitute a record of the activities of a public office or agency, or they are the statement of a single individual and not representative of an entire office or agency.

Under MRE 803(8)(A), records or statements of public office or agencies, setting forth the activities of the office or agency, are admissible as an exception to hearsay. See MRE 803(8)(A). The rule is designed as a tool to allow into evidence public records and documents not prepared for the purposes of litigation. *United States v. Yeoman*, 22 M.J. 762, 765 (N.M.C.M.R. 1986) (citing *United States v. Stone*, 604 F.2d 922 (5th Cir. 1979)). Further, under the plain language of the rule, courts considering whether to admit the records or statements of public agencies must determine whether the proffered statement is actually the statement of the public office, and whether the proffered statement sets forth the “activities of the office or agency” within the meaning of the rule. See MRE 803(8)(A). In this case, the statements of Secretaries Gates and Clinton in Attachments D and E, respectively, consist of responses to questions during what appear to be news conferences. See Attachments D and E to the Defense

<sup>3</sup> For the purposes of this response, the United States assumes the defense is moving for admission of only six statements under MRE 803(8) vice the other statements relevant to the motion. See Def. Supp. at 9 (“Statements by the President, Secretaries of Defense and State and a Congressman made at a formal committee hearing clearly fall within this exception.”).

Supplement. The news conference at which Secretary Gates made his statement was convened in order to comment on the findings and recommendations of the working group formed to review the issues associated with implementing repeal of "don't ask, don't tell." See Attachment D to the Defense Supplement. The news conference at which Secretary Clinton made her statement was convened as part of a summit to discuss the strategic partnership between the governments of the United States and Kazakhstan. See Attachment E to the Defense Supplement. In short, neither statement can be characterized as a routine and non-adversarial statement of the Department of Defense or Department of State, made as part of the daily function of the respective agency. See *Yeoman*, 22 M.J. at 765. Additionally, neither statement sets forth or records the activities of the Department of Defense or the Department of State.

The proffered statement of Representative Conyers in Attachment H to the Defense Supplement is also inadmissible under MRE 803(8)(A). The defense relies upon two cases in which courts held that the press releases of public agencies were admissible under MRE 803(8). See Def. Supp. at 9. Notwithstanding the fact that one of the cases concerned a statement found to be admissible under MRE 803(8)(C), the statement of Representative Conyers during a House Judiciary Committee meeting can in no way be interpreted as the statement of an entire office or agency. For example, if the House Judiciary Committee released a report, and followed that report with a press release from Representative Conyers detailing the findings and recommendations, that statement might be admissible under MRE 803(8)(A). That situation is not present in this case. Further, even if this Court accepts the proposition that Representative Conyers speaks for the entire committee, his statement relevant to this case is miles away from a statement which sets forth the activities of the House Judiciary Committee. See Attachment H to the Defense Supplement ("Furthermore, we are too quick to accept government claims that risk the national security....").

#### IV. THE PROFFERED STATEMENTS ARE NOT RELEVANT UNLESS OFFERED TO PROVE THE TRUTH OF THE MATTER ASSERTED.

The defense argues that all the proffered statements are admissible when not offered for the truth of the matter asserted, because the statements demonstrate that the official position of the United States government was that the alleged leaks did not actually cause harm. See Def. Supp. at 9-10. The defense makes no attempt to distinguish the content of the proffered statements, despite the fact that several of the statements do not discuss damage or harm in any conceivable way. See Attachments A, B, F, and H to the Defense Supplement. Further, even if this Court accepts that the statements relate to the lack of damage or harm caused by the leaks in this case, the statements are not relevant for reasons not related to their truth. The government's official position, as asserted through public statements on the leaks, is in no way relevant to the issue of whether or not the accused's conduct actually caused or did not cause damage. In fact, that nuance would likely confuse a panel. As such, the statements not offered for their truth should be excluded on the basis that the probative value of the evidence would be substantially outweighed by the danger of confusion and misleading the members. See MRE 403.




V. THE MAJORITY OF THE PROFFERED STATEMENTS ARE ADMISSIBLE IF THE RULES OF EVIDENCE ARE RELAXED.

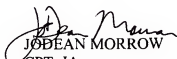
Assuming the Court finds the statements relevant during presentencing proceedings, either for their truth or for some other reason, the United States concedes that the vast majority of the statements are likely admissible if the rules of evidence are relaxed under RCM 1001(c)(3). The defense has provided additional evidence relating to the authenticity and reliability of the statements in its supplement, with the exception of the "statement" allegedly made by Secretary of State Clinton in Attachment F to the Defense Supplement. Attachment F is different because, based on the evidence provided by the defense, it is difficult to determine where a statement begins and ends, as well as whether the various articles quoted Secretary Clinton accurately. *See* Attachment F to the Defense Supplement (quoting Secretary Clinton differently in each article); *United States v. Gudel*, 17 M.J. 1075, 1077-78 ("Although hearsay evidence may, under some circumstances, be admissible during sentencing proceedings because the rules are relaxed...the hearsay evidence in this case, while relevant and material, is simply too far removed from its source to have sufficient indicia of reliability."). Accordingly, Secretary Clinton's "statement" in Attachment F to the Defense Supplement should be deemed inadmissible.

**CONCLUSION**

The United States respectfully requests this Court DENY, in part, the Defense Supplement to Motion for Judicial Notice and Admission of Public Statements. For the reasons stated above, the proffered statements are not admissible under the Military Rules of Evidence.

  
JODEAN MORROW  
CPT, JA  
Assistant Trial Counsel

I certify that I served or caused to be served a true copy of the above on Mr. David E. Coombs, Civilian Defense Counsel, via electronic mail, on 27 September 2012.

  
JODEAN MORROW  
CPT, JA  
Assistant Trial Counsel

**UNITED STATES OF AMERICA**

**v.**

**Manning, Bradley E.  
PFC, U.S. Army,  
HHC, U.S. Army Garrison,  
Joint Base Myer-Henderson Hall  
Fort Myer, Virginia 22211**

**Prosecution Notification  
to the Court:  
Questionnaires**

**21 September 2012**

In accordance with the Court's Order, the United States sent questionnaires to all panel members on 4 September 2012. The United States received responsive questionnaires from forty-four of the sixty-eight active panel members. The following is list of the panel members who have not responded and explanations of their lack of responses:

1. COL Michael Strozier – have not yet received confirmation of receipt of questionnaire; on convalescent leave
2. MSG Paul Riedel – requesting permanent excusal from panel due to PCS to Fort Bragg
3. SGM Anthony Brion – TDY until 24 September 2012; will complete questionnaire upon return
4. LTC Roosevelt Samuel – currently in the process of completing questionnaire
5. LTC Jennifer Reynolds – have not yet received confirmation of receipt of questionnaire
6. COL Vincent Bryant – stated he was opting not to answer the questionnaire and intends to answer the questions in court
7. COL Heino Klinck – planning on requesting permanent excusal from panel due to constant TDY
8. LTC David Applegate – have not yet received confirmation of receipt of questionnaire
9. LTC Brandon Robbins – have not yet received confirmation of receipt of questionnaire; currently in Afghanistan
10. LTC Thomas Goldner – have not yet received confirmation of receipt of questionnaire
11. LTC Tom Alexander Jr. – have not yet received confirmation of receipt of questionnaire
12. COL Christopher Benya – have not yet received confirmation of receipt of questionnaire; on leave until 24 September 2012
13. COL Gregory Jaksec – have not yet received confirmation of receipt of questionnaire

14. LTC Tony Owens – have not yet received confirmation of receipt of questionnaire
15. LTC Jay Persons – currently in the process of completing the questionnaire
16. COL Daniel Morris – have not yet received confirmation of receipt of questionnaire
17. MAJ Ronnie Park – currently in the process of completing the questionnaire
18. CSM Richard Jessup – requesting temporary excusal from panel due to being Accused's Battalion Sergeant Major
19. MSG Jonathan Martinez – have not yet received confirmation of receipt of questionnaire
20. CSM Daniel Hendrex – have not yet received confirmation of receipt of questionnaire
21. MSG Debra Spears – have not yet received confirmation of receipt of questionnaire
22. SFC Joshua Volcy – have not yet received confirmation of receipt of questionnaire
23. SFC Kenneth Green – was on leave until 21 September 2012; currently in process of completing questionnaire
24. MSG De Ett Eaton – have not yet received confirmation of receipt of questionnaire

Based on the Court's 21 September 2012 suspense, the prosecution will continue working with the Criminal Law Division, MDW, as well as the relevant panel members and their leadership to obtain the required responses as soon as possible. The original questionnaires and updated questionnaires are on file with the prosecution and available to defense for inspection.



ANGEL OVERGAARD  
CPT, JA  
Assistant Trial Counsel

I certify that I served or caused to be served a true copy of the above on Mr. David Coombs, Civilian Defense Counsel, via electronic mail, on 21 September 2012.



ANGEL OVERGAARD  
CPT, JA  
Assistant Trial Counsel

IN THE UNITED STATES ARMY  
FIRST JUDICIAL CIRCUIT

UNITED STATES )

v. )

MANNING, Bradley E., PFC )

U.S. Army, )

Headquarters and Headquarters Company, U.S. )

Army Garrison, Joint Base Myer-Henderson Hall, )  
Fort Myer, VA 22211 )

**DEFENSE ADDITIONAL  
REQUESTED WITNESSES:  
ARTICLE 13 MOTION**

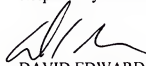
DATED: 26 September 2012

1. On behalf of PFC Bradley E. Manning, his civilian counsel, David E. Coombs requests the attendance of the following additional witnesses for purposes of his Article 13 motion:

- a) Col. Thomas V. Johnson, thomas.v.johnson@usmc.mil, (703) 784-9350. Col. Johnson is the former Chief Public Affairs Officer for Marine Corps Combat Development Command and Marine Corps Base Quantico. Col. Johnson will testify about how he assisted the command in addressing media questions and inquiries concerning the treatment of PFC Manning. He was one of the individuals that assisted the command in deflecting criticism of Quantico's treatment of PFC Manning. He also advocated, on behalf of the command, the justifications for why PFC Manning was being held in Maximum Custody and Prevention of Injury Status. Col. Johnson will testify that he provided frequent media updates to LtGen. Flynn and the command concerning PFC Manning. He will also testify about how he provided PAO guidance to the command in order to be portrayed in a more positive light in the media. Finally, he will testify that he ran media questions concerning PFC Manning by LtGen. Flynn and others of the command and staff prior to submitting his responses to the media.
- b) Capt. Brian S. Villiard, brian.villiard@usmc.mil, (703) 432-0289. Capt. Villiard is a former Public Affairs Officer for Marine Corps Combat Development Command and Marine Corps Base Quantico. He will testify concerning his role as a PAO representative in explaining the custody status of PFC Manning. Specifically, he will testify concerning the commands' requirement for PFC Manning to surrender his clothing at night, and the statements that Capt. Villiard gave to the media concerning this events on 2 March 2011.

2. The Defense reserves the right to supplement this witness list should it be necessary to do so based upon any additional discovery being provided by the Government.

Respectfully submitted,



DAVID EDWARD COOMBS  
Civilian Defense Counsel

UNITED STATES OF AMERICA )

v. )

Manning, Bradley E.  
PFC, U.S. Army,  
HHC, U.S. Army Garrison,  
Joint Base Myer-Henderson Hall  
Fort Myer, Virginia 22211 )

Prosecution Disclosure  
to the Defense

Speedy Trial Chronology

26 September 2012

Pursuant to Rule 3.2, Rules of Practice before Army Courts-Martial 2012, the United States discloses the attached chronology of dates and events for the above-captioned court-martial.

The prosecution has engaged in constant, complex interagency coordination, which will be outlined in the government's response to the defense motion, to obtain evidence, classification reviews, approvals for disclosure, and to responses to defense requests. Given the substance, sensitivity, sheer volume of the compromised information, and the ongoing national security issues, numerous government organizations and commands have maintained a role in this case since the accused was placed in pretrial confinement. As a result, the prosecution coordinated daily with law enforcement organizations and the numerous affected agencies during the investigation of, and response to, the compromises.

The following approximately 6600 line chronology documents dates and activities recorded by the prosecution. This chronology was constructed throughout the pretrial proceedings; however, given the voluminous scope and classified nature of much of the compromised information, the chronology does not document each and every government action. Moreover, this chronology does not fully respond to the 117-page Defense Motion to Dismiss All Charges and Specifications with Prejudice for Lack of a Speedy Trial (Defense Motion), dated 19 September 2012. The prosecution intends to incorporate any alterations and additions to the chronology in its response to the Defense Motion, if necessary.

  
ASHDEN FEIN  
MAJ, JA  
Trial Counsel

Enclosure  
Government Speedy Trial Chronology

Date	Week Day	EVENT	Total Time	RCM 707 Clock
25-May-10	Tue	LAMO REPORTS THE ACCUSED'S ALLEGED CRIMINAL ACTS TO LAW ENFORCEMENT	0	0
25-May-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	0	0
27-May-10	Thu	CID AND FBI NOTIFY THE CHAIN OF COMMAND OF THE ACCUSED'S ALLEGED CRIMINAL ACTS	0	0
27-May-10	Thu	ACCUSED IS CONFINED IN HIS CHU WITH ARMED GUARDS	0	0
27-May-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	0	0
28-May-10	Fri	Training Holiday - Memorial Day Holiday	1	1
28-May-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	1	1
29-May-10	Sat	ACCUSED ENTERS THE KUWAIT THEATRE CONFINEMENT FACILITY FOR PRETRIAL CONFINEMENT	2	2
29-May-10	Sat	Meeting-PTC hearing Camp Liberty	2	2
29-May-10	Sat	Meeting-with CID to discuss evidence, investigation status, and view chat logs	2	2
29-May-10	Sat	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	2	2
30-May-10	Sun	Phone call with CID & J2X about investigation status	3	3
30-May-10	Sun	Received PTC Hearing findings and recommendations from CPT Ley	3	3
30-May-10	Sun	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	3	3
31-May-10	Mon	Memorial Day Holiday	4	4
31-May-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	4	4
2-Jun-10	Wed	Accused collapses in the yard of the TFCF and is given immediate medical attention	6	6
2-Jun-10	Wed	Email with CCIU to discuss forensic scans of computers	6	6
2-Jun-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	6	6
3-Jun-10	Thu	Accused collapses in his cell with his head and neck being supported by the wall; TFCF personnel instructed accused not to move due to the positioning of his neck; medical personnel arrived to assess his condition and provide support	7	7
3-Jun-10	Thu	Email with CCIU to determine authority to "freeze" accused's shared drive profiles	7	7
3-Jun-10	Thu	Email with DOS in regards to the INSCOM meeting	7	7

Date	Week Day	EVENT	Total Time	RCM 707 Clock
3-Jun-10	Thu	Meeting-with J2X at the Legal Center regarding the investigation	7	7
3-Jun-10	Thu	Phone call with INSCOM OSJA	7	7
3-Jun-10	Thu	Researched electronic evidence foundations	7	7
3-Jun-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	7	7
4-Jun-10	Fri	Attended TCAP Conference and discussed case with Chief of TCAP	8	8
4-Jun-10	Fri	Contacted SSO to request interim TS Clearance for the case	8	8
4-Jun-10	Fri	Meeting-with J2X and CID regarding the status of the investigation	8	8
4-Jun-10	Fri	Phone call with CCIU about search authorizations	8	8
4-Jun-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	8	8
5-Jun-10	Sat	Attended TCAP Conference and discussed case with Chief of TCAP	9	9
5-Jun-10	Sat	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	9	9
6-Jun-10	Sun	Attended TCAP Conference and discussed case with Chief of TCAP	10	10
6-Jun-10	Sun	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	10	10
7-Jun-10	Mon	Meeting-with CID to receive chat logs	11	11
7-Jun-10	Mon	Meeting-with J2X regarding investigation status	11	11
7-Jun-10	Mon	Phone call with DOS	11	11
7-Jun-10	Mon	Phone call with DSS/DOS	11	11
7-Jun-10	Mon	Phone call with OGA2	11	11
7-Jun-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	11	11
8-Jun-10	Tue	Phone call with CCIU for case update	12	12
8-Jun-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	12	12
9-Jun-10	Wed	Accused announces to other inmates that he is gay and, when asked by TFCF personnel if he felt threatened by other inmates, he responded, "no, but they might feel threatened by me"	13	13
9-Jun-10	Wed	Meeting-Iraq TCs analyze evidence and worked on elements of proof worksheet	13	13

Date	Week Day	EVENT	Total Time	RCM 707 Clock
9-Jun-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	13	13
10-Jun-10	Thu	Created draft charge sheet pending forensic results	14	14
10-Jun-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	14	14
11-Jun-10	Fri	Email with CCIU received the new search authorization	15	15
11-Jun-10	Fri	Meeting with J2X regarding investigation status	15	15
11-Jun-10	Fri	SJA met with SJA USF-I regarding interagency coordination	15	15
11-Jun-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	15	15
12-Jun-10	Sat	Email with CCIU regarding search and seizure authorization requirements for digital devices	16	16
12-Jun-10	Sat	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	16	16
13-Jun-10	Sun	Email with CCIU regarding search and seizure authorization requirements for digital devices	17	17
13-Jun-10	Sun	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	17	17
14-Jun-10	Mon	Email with CID about signed search authorization for search of digital information and shared drives	18	18
14-Jun-10	Mon	Special Agent obtained CPT Ley's signature on the new search authorizations for the digital evidence and the shared drives, and sent them to CCIU	18	18
14-Jun-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	18	18
15-Jun-10	Tue	Communication with defense to inform of the status of preferring charges	19	19
15-Jun-10	Tue	Phone call with CCIU to discuss preliminary findings and possible charges	19	19
15-Jun-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	19	19
16-Jun-10	Wed	Forensic analysis by CCIU continued	20	20
16-Jun-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	20	20
17-Jun-10	Thu	Phone call with CCIU about updated proof matrix and charge sheet based on vocal draft, preliminary report, and initial ROI from CCIU	21	21



Date	Week Day	EVENT	Total Time	RCM 707 Clock
17-Jun-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	21	21
18-Jun-10	Fri	Phone call with DOJ to discuss potential charges, panel instructions, evidentiary issues, and prosecution of the case in general	22	22
18-Jun-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	22	22
18-Jun-10	Fri	Worked on prosecution slideshow and drafted proposed charges	22	22
19-Jun-10	Sat	Meeting with Chief of Military Justice, USF-I, regarding investigation and the status of preferring charges	23	23
19-Jun-10	Sat	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	23	23
19-Jun-10	Sat	Worked on prosecution slideshow	23	23
20-Jun-10	Sun	Email to defense counsel inviting them to sit down at MJ Office and talk about progression of the investigation and preferal of charges	24	24
20-Jun-10	Sun	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	24	24
21-Jun-10	Mon	Communication with defense counsel to discuss charges, initial forensics, and to open dialogue.	25	25
21-Jun-10	Mon	Drafted deposition orders for Lamo, Watkins, and Schmiedl	25	25
21-Jun-10	Mon	Email with NG and USAR units in Boston and Sacramento to figure out if anyone can help with the depositions	25	25
21-Jun-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	25	25
22-Jun-10	Tue	Email with CCIU about forensics	26	26
22-Jun-10	Tue	Tried to rush initial report since the accused is still not charged, answered emails from California and Massachusetts regarding depositions, and identified deposition office in California	26	26
22-Jun-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	26	26
23-Jun-10	Wed	Email to CCIU and DOJ to coordinate a meeting in Germany for case preparation	27	27
23-Jun-10	Wed	Email with CCIU about forensics update	27	27
23-Jun-10	Wed	Finalized draft charge sheet and sent it to DOJ counter espionage unit and TCAP for review	27	27

Date	Week Day	EVENT	Total Time	RCM 707 Clock
23-Jun-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	27	27
24-Jun-10	Thu	Email with CCIU about forensics update, expected on 25 Jun	28	28
24-Jun-10	Thu	Email with Div Psych regarding 706 board	28	28
24-Jun-10	Thu	Made changes on draft charges	28	28
24-Jun-10	Thu	Phone call with Dr. Weber in Kuwait regarding 706 board	28	28
24-Jun-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	28	28
28-Jun-10	Mon	Email from DSJA explaining that accused is exhibiting behavioral problems and may need to be transferred to an RCF	32	32
28-Jun-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	32	32
29-Jun-10	Tue	Received an update from CID regarding forensics report; forensics report delayed, stressed importance of initial draft so we can charge accused	33	33
29-Jun-10	Tue	Sent revised draft charge sheet to DOJ, CCIU, and TCAP for review; received feedback and made changes	33	33
29-Jun-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	33	33
30-Jun-10	Wed	Accused carried to his cell after babbling and failing to following orders	34	34
30-Jun-10	Wed	Accused refused to follow orders of TFCF personnel and was observed screaming, shaking, and babbling	34	34
30-Jun-10	Wed	Email to DSJA with final draft of charge sheet for review and comment	34	34
30-Jun-10	Wed	Email with CCIU on talking to DOS about cables involved, including putting CCIU in contact with defense counsel to see if the accused will speak with investigators	34	34
30-Jun-10	Wed	USARCENT SJA contacted USF-I SJA to coordinate accused's movement to a long term confinement facility	34	34
30-Jun-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	34	34
1-Jul-10	Thu	Accused is moved to a long term confinement facility	35	35
1-Jul-10	Thu	Email to 2/10 BCT and DSJA with second final draft charge sheet for review and comment	35	35
1-Jul-10	Thu	Email to CCIU for clarification on the classification of some of the cables for charging decisions	35	35
1-Jul-10	Thu	Email to CCIU, CPT Rose, and MAJ Brent reference 706 Board	35	35
1-Jul-10	Thu	Email to multiple offices trying to find someone to conduct the 706 board as no providers are willing to fly to Kuwait	35	35

Date	Week Day	EVENT	Total Time	RCM 707 Clock
1-Jul-10	Thu	EML (R&R Leave)	35	35
1-Jul-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	35	35
2-Jul-10	Fri	EML (R&R Leave)	36	36
2-Jul-10	Fri	Sent final draft to DSJA after receiving breakdown of classifications of whole or mainly whole HTML cables on personal computer; finished downloading all forensic reports from SIPR	36	36
2-Jul-10	Fri	Training Holiday - Independence Day Holiday	36	36
2-Jul-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	36	36
3-Jul-10	Sat	EML (R&R Leave)	37	37
3-Jul-10	Sat	Expeditionary Medical Facility in Kuwait examined accused and recommended relocation to a facility that could provide additional care	37	37
3-Jul-10	Sat	Sent final draft to DSJA ready for preferral who sent to USF-I for review and finalized press release with PAO and CPT McFarland; reviewed press release and made some changes	37	37
3-Jul-10	Sat	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	37	37
4-Jul-10	Sun	Administrative events leading to trial	38	38
4-Jul-10	Sun	Communication with defense to give the preferral packet and informed him preferral will be tomorrow	38	38
4-Jul-10	Sun	Defense receives CID file (Iraq)	38	38
4-Jul-10	Sun	EML (R&R Leave)	38	38
4-Jul-10	Sun	GCMCA, 3rd Army, ordered accused's transfer as soon as suitable replacement with mental health care resources is found	38	38
4-Jul-10	Sun	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	38	38
5-Jul-10	Mon	ORIGINAL CHARGES PREFERRED	39	39
5-Jul-10	Mon	Charges preferred and forwarded to SCMCA; sent the preferred charges to MAJ Vorhees in Kuwait to serve on the accused and to CCIU and the defense	39	39
5-Jul-10	Mon	EML (R&R Leave)	39	39
5-Jul-10	Mon	Independence Day Holiday	39	39
5-Jul-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	39	39
6-Jul-10	Tue	SPC MCA ORDERS ARTICLE 32 (IRAQ)	40	40
6-Jul-10	Tue	Email with DOS to identify witness regarding classification of all DOS cables	40	40

Date	Week Day	EVENT	Total Time	RCM 707 Clock
6-Jul-10	Tue	EML (R&R Leave)	40	40
6-Jul-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	40	40
7-Jul-10	Wed	Communication with defense regarding their request for a RCM 706 board	41	41
7-Jul-10	Wed	EML (R&R Leave)	41	41
7-Jul-10	Wed	LTC Merutka appointed as Article 32 Investigating Officer (IO)	41	41
7-Jul-10	Wed	Submitted witness list for Article 32 investigation	41	41
7-Jul-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	41	41
8-Jul-10	Thu	EML (R&R Leave)	42	42
8-Jul-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	42	42
9-Jul-10	Fri	EML (R&R Leave)	43	43
9-Jul-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	43	43
10-Jul-10	Sat	EML (R&R Leave)	44	44
10-Jul-10	Sat	IO sends out notification for Article 32 investigation	44	44
10-Jul-10	Sat	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	44	44
11-Jul-10	Sun	Contacted the USD-C Division Psychiatrist to find provider who would conduct the RCM 706 board; referred to CENTCOM by USF-I Deputy Surgeon.	45	45
11-Jul-10	Sun	Defense requests a 706 board and a delay of Article 32 proceedings	45	45
11-Jul-10	Sun	EML (R&R Leave)	45	45
11-Jul-10	Sun	GCMCA, USD-C, signed memo requesting accused's transfer to the Mannheim ACF in Germany	45	45
11-Jul-10	Sun	IO denied defense request for delay	45	45
11-Jul-10	Sun	Sent IO government witness list for Article 32 investigation	45	45
11-Jul-10	Sun	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	45	45
12 Jul-10	Mon	SPCMCA GRANTS DEFENSE REQUEST FOR RCM 706 SANITY BOARD AND DELAY OF ARTICLE 32 INVESTIGATION	46	45
12 Jul-10	Mon	DEFENSE REQUESTS DELAY OF ARTICLE 32 INVESTIGATION FOR RCM 706 SANITY BOARD	46	45
12-Jul-10	Mon	CCIU completed second interim forensic reports	46	45
12-Jul-10	Mon	Email with USF-I Deputy SJA for assistance in finding/tasking a provider for the 706 board	46	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
12-Jul-10	Mon	Email with USF-I Deputy Surgeon about tasking a provider for the 706 Board and had to refer to ARCENT or CENTCOM to request provider	46	45
12-Jul-10	Mon	EML (R&R Leave)	46	45
12-Jul-10	Mon	SPCMCA Delay of Article 32 Investigation	46	45
12-Jul-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	46	45
13-Jul-10	Tue	DEFENSE REQUESTS APPOINTMENT OF EXPERT IN COMPUTER FORENSICS TO THE DEFENSE TEAM	47	45
13-Jul-10	Tue	Defense requested expert assistant, Mr. Lakes	47	45
13-Jul-10	Tue	Email with leadership about transferring accused as soon as possible and not waiting until the start of the 706 board	47	45
13-Jul-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	47	45
14-Jul-10	Wed	GCMCA denied defense expert request	48	45
14-Jul-10	Wed	Meeting-TDY to Wiesbaden, Germany for meeting with DOJ and CCIU to discuss the way forward for the case.	48	45
14-Jul-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	48	45
14-Jul-10	Wed	Worked with Chief, MJ & Civil Law, US Army Europe and the Operations Division Chief, Army Corrections Command to try and transfer accused to the Mannheim ACF	48	45
15-Jul-10	Thu	Meeting-TDY to Wiesbaden, Germany for meeting with DOJ and CCIU to discuss the way forward for the case	49	45
15-Jul-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	49	45
15-Jul-10	Thu	Worked with Chief, MJ & Civil Law, US Army Europe and the Operations Division Chief, Army Corrections Command to try and transfer accused to the Mannheim ACF	49	45
16-Jul-10	Fri	Defense requested reconsideration for expert assistance	50	45
16-Jul-10	Fri	Meeting-TDY to Wiesbaden, Germany for meeting with DOJ and CCIU to discuss the way forward for the case	50	45
16-Jul-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	50	45
16-Jul-10	Fri	Worked with Chief, MJ & Civil Law, US Army Europe and the Operations Division Chief, Army Corrections Command to try and transfer accused to the Mannheim ACF	50	45
17-Jul-10	Sat	Meeting-TDY to Wiesbaden, Germany for meeting with DOJ and CCIU to discuss the way forward for the case	51	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
17-Jul-10	Sat	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	51	45
18-Jul-10	Sun	Defense renewed request for RCM 706 board	52	45
18-Jul-10	Sun	Meeting-TDY to Wiesbaden, Germany for meeting with DOJ and CCIU to discuss the way forward for the case	52	45
18-Jul-10	Sun	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	52	45
19-Jul-10	Mon	Meeting-TDY to Wiesbaden, Germany for meeting with DOJ and CCIU to discuss the way forward for the case	53	45
19-Jul-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	53	45
20-Jul-10	Tue	Meeting-TDY to Wiesbaden, Germany for meeting with DOJ and CCIU to discuss the way forward for the case	54	45
20-Jul-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	54	45
21-Jul-10	Wed	Meeting-TDY to Wiesbaden, Germany for meeting with DOJ and CCIU to discuss the way forward for the case	55	45
21-Jul-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	55	45
22-Jul-10	Thu	Email with CCIU about the restore points spoken about during meeting in Germany	56	45
22-Jul-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	56	45
22-Jul-10	Thu	Worked on getting defense expert a place to work at Ft Knox since he will have classified information and can't take it to his lab; RFI from CCIU to CID office at Ft. Knox; continued case prep with RFIs to CCIU about certain items in the new forensic reports	56	45
23 Jul 10	Fri	SPCMCA APPOINTS EXPERT IN COMPUTER FORENSICS TO THE DEFENSE TEAM (DEFENSE REQUEST, 13 JUL 10)	57	45
23-Jul-10	Fri	Communication with defense to send GCMCA's response and began movement to get information to expert prior to Article 32 investigation	57	45
23-Jul-10	Fri	GCMCA approved defense second request for expert assistance	57	45
23-Jul-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	57	45
24-Jul-10	Sat	Drafted protective order, sent to DOJ for review, gave the order to the SJA for immediate signature by GCMCA	58	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
24-Jul-10	Sat	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	58	45
25-Jul-10	Sun	Defense received CID file-CONUS	59	45
25-Jul-10	Sun	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	59	45
27-Jul-10	Tue	GCMCA agreed to take Court-Martial Jurisdiction	61	45
27-Jul-10	Tue	Reached out for initial classification of evidence	61	45
27-Jul-10	Tue	SJA reengaged USF-I to find a provider for 706 board	61	45
27-Jul-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	61	45
28-Jul-10	Wed	1AD GCMCA ISSUES PROTECTIVE ORDER GOVERNING CLASSIFIED INFORMATION	62	45
28-Jul-10	Wed	Defense expert signed MOU regarding classified information	62	45
28-Jul-10	Wed	Email with CCIU to request classification review of apache video	62	45
28-Jul-10	Wed	Email with CCIU to request classification review of cables on accused's personal Mac computer	62	45
28-Jul-10	Wed	Email with OTJAG to discuss classification reviews of Farah 15-6, Apache video, the Gharani investigation, SOUTHCOM documents, and CIDNE-I/CIDNE-A data	62	45
28-Jul-10	Wed	GCMCA signed protective order and transfer of jurisdiction to MDW	62	45
28-Jul-10	Wed	SITREP sent to SCMCA and SPCMCA on jurisdiction transfer of accused	62	45
28-Jul-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	62	45
29-Jul-10	Thu	Accused arrived at the Quantico Brig and began inprocessing	63	45
29-Jul-10	Thu	Coordinated with 1AD COJ/SJA on case file and status of actions	63	45
29-Jul-10	Thu	Coordinated with OGA2 personnel assigned to the case	63	45
29-Jul-10	Thu	Email with PAO confirming that accused arrived at Quantico at 2118 hours	63	45
29-Jul-10	Thu	OTJAG requested 1st CAV to conduct classification review on Apache video	63	45
29-Jul-10	Thu	TC in Iraq coordinated with TC in MDW	63	45
29-Jul-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	63	45
30-Jul-10	Fri	Email with OTJAG explaining the Apache video is too large to be sent via SIPRNET and will start coordinating alternate means of transmitting the video to Fort Hood	64	45

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Date	Week Day	EVENT	Total Time	RCM 707 Clock
30-Jul-10	Fri	Email with OTJAG requested classification review of Apache video; put in touch with MAJ Fein as new lead Trial Counsel	64	45
30-Jul-10	Fri	FBI agreed to participate jointly in Wikileaks investigation	64	45
30-Jul-10	Fri	Phone call to discuss case with Iraq TCs	64	45
30-Jul-10	Fri	Received case file from IAD	64	45
30-Jul-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	64	45
31-Jul-10	Sat	Administrative events leading to trial	65	45
31-Jul-10	Sat	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	65	45
1-Aug-10	Sun	Administrative events leading to trial	66	45
1-Aug-10	Sun	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	66	45
2-Aug-10	Mon	SPC MCA ORDERS ARTICLE 32 (MDW)	67	45
2-Aug-10	Mon	IAD GCMCA RELEASES JURISDICTION TO MDW GCMCA	67	45
2-Aug-10	Mon	Communication with defense- Notification of MAJ Hurley identified as temporary point of contact	67	45
2-Aug-10	Mon	Email requesting US Army trial judge as Article 32 IO	67	45
2-Aug-10	Mon	Forwarded the charge sheet and accused's ERB to Chief Trial Judge to secure an Article 32 Investigating Officer	67	45
2-Aug-10	Mon	MAJ Hurley temporarily detailed as defense counsel for accused until a stateside attorney is found	67	45
2-Aug-10	Mon	Received first MDW Public Affairs Guidelines regarding the accused	67	45
2-Aug-10	Mon	Requested Article 32 Investigating Officer from Chief Trial Judge	67	45
2-Aug-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	67	45
3-Aug-10	Tue	SPC MCA ORDERS RCM 706 BOARD	68	45
3-Aug-10	Tue	Email Coordinated a meeting with DOS at State	68	45
3-Aug-10	Tue	Email Initial contact with Dr. Sweda to assemble RCM 706 Board members; forwards the board order and charge sheet	68	45
3-Aug-10	Tue	Email Received Article 32 IO information	68	45
3-Aug-10	Tue	Email with DOS-began contacting DOS	68	45
3-Aug-10	Tue	Email with DOS-requested authorization to release information to defense	68	45
3-Aug-10	Tue	FBI becomes primary law enforcement organization relating to Wikileaks	68	45
3-Aug-10	Tue	Phone call Discuss case with Iraq TCs, DOJ, and DOS	68	45
3-Aug-10	Tue	Received IO name for appointment from Chief Trial Judge; IO detailed by the Chief judge for the Article 32; Article 32 IO exchanged contact information with the prosecution	68	45



Date	Week Day	EVENT	Total Time	RCM 707 Clock
3-Aug-10	Tue	SPCMCA ordered RCM 706 Board for accused	68	45
3-Aug-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	68	45
4-Aug-10	Wed	Communication with defense-Iraq counsel meet with TDS to discuss case and deals for accused	69	45
4-Aug-10	Wed	Email Dr. Sweda, RCM 706 Board, requests information about security clearance requirements	69	45
4-Aug-10	Wed	IO acknowledged appointment as Article 32 officer and notified the prosecution that he will be contacting administrative law	69	45
4-Aug-10	Wed	Joined the prosecution team	69	45
4-Aug-10	Wed	Phone call Conference call with Iraq TCs and CCIU	69	45
4-Aug-10	Wed	Served IO the appointment orders, charge sheet, ERB and contact information of all counsel and staff	69	45
4-Aug-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	69	45
5-Aug-10	Thu	Communication with defense-defense notified the RCM 706 board there is no need for members of the board to have a security clearance because defense will ensure the accused does not divulge classified information	70	45
5-Aug-10	Thu	Communication with defense-defense requested the opportunity to view both the long and short-form of the RCM 706 board results	70	45
5-Aug-10	Thu	Communication-Defense counsel informs TCs and RCM 706 Board there is no need for clearances as accused will try to refrain from disclosing classified information	70	45
5-Aug-10	Thu	Discussed clearances and timeframe for 706 members to complete the board	70	45
5-Aug-10	Thu	Meeting-receive CCIU forensic brief on the case	70	45
5-Aug-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	70	45
6-Aug-10	Fri	Email Dr. Sweda requests a 3 month suspense to complete RCM 706 board	71	45
6-Aug-10	Fri	Email LTC Almanza states that he will be sending out the notification memo early next week and will hold the hearing on 13 August 2010	71	45
6-Aug-10	Fri	Meeting-receive CCIU forensic brief on the case	71	45
6-Aug-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	71	45
7-Aug-10	Sat	Communication with defense-defense inquired what the government would offer for an OTPG	72	45
7-Aug-10	Sat	CPT Rose TDY at MDW	72	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
7-Aug-10	Sat	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	72	45
8-Aug-10	Sun	CPT Rose TDY at MDW	73	45
8-Aug-10	Sun	Email Coordinating CCIU interview of service member who has defense counsel and possibly committed separate crime with accused	73	45
8-Aug-10	Sun	Meeting-receive CCIU forensic brief on the case	73	45
8-Aug-10	Sun	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	73	45
9-Aug-10	Mon	Communication with defense-with MAJ Hurley about RCM 706 suspense/requirements, delay requests, protection order, delay of Article 32	74	45
9-Aug-10	Mon	CPT Rose TDY at MDW	74	45
9-Aug-10	Mon	Meeting-Iraq TCs meet with MDW TCs in DC and brief case	74	45
9-Aug-10	Mon	Meeting-Prosecution first meets with DOJ	74	45
9-Aug-10	Mon	Phone call with DOS equity meeting	74	45
9-Aug-10	Mon	Received IRTF establishment memo	74	45
9-Aug-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	74	45
10-Aug-10	Tue	Communication with defense-defense requested a six-week suspense for the RCM 706 board to complete its report	75	45
10-Aug-10	Tue	Communication with defense-MAJ Hurley explained to Dr. Sweda the RCM 706 board should finish within 6 weeks, or then ask for an extension	75	45
10-Aug-10	Tue	Communication with defense-with defense counsel, discussed additional tests or focuses for RCM 706 Board, a 6 week suspense to complete the board, another Article 32 delay request from the defense until 706 Board is complete, and any objections the defense may have	75	45
10-Aug-10	Tue	CPT Rose TDY at MDW	75	45
10-Aug-10	Tue	Email from Dr. Sweda to all parties to state the first evaluation of accused is scheduled for 27 August 2010	75	45
10-Aug-10	Tue	Email to Article 32 IO that the defense has submitted an Article 32 delay	75	45
10-Aug-10	Tue	Meeting-ENCASE class with CID	75	45
10-Aug-10	Tue	Meeting-with DOJ and DOS to discuss classification reviews, discovery, and the ongoing investigation	75	45
10-Aug-10	Tue	Meeting-with MDW security to discuss security clearances	75	45
10-Aug-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	75	45
11-Aug-10	Wed	DEFENSE REQUESTS DELAY OF ARTICLE 32 INVESTIGATION FOR RCM 706 SANITY BOARD	76	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
11-Aug-10	Wed	Coordinated Article 32 delay thru IO to SPCMCA	76	45
11-Aug-10	Wed	Email from Article 32 IO stating he has no objections to defense delay and endorses the request	76	45
11-Aug-10	Wed	Meeting-with DOJ and EDVA to discuss classification reviews of DOS information, the ongoing investigations, and discovery	76	45
11-Aug-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	76	45
12-Aug-10	Thu	SPCMCA APPROVES DEFENSE'S REQUEST FOR DELAY OF ARTICLE 32 INVESTIGATION (DEFENSE REQUEST, 11 AUG 2010)	77	45
12-Aug-10	Thu	Meeting-USN Code 30 classified litigation training at MDW	77	45
12-Aug-10	Thu	Meeting-with CCIU, DOJ, and the IRTF	77	45
12-Aug-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	77	45
13-Aug-10	Fri	Meeting-USN Code 30 classified litigation training at MDW	78	45
13-Aug-10	Fri	Meeting-with CCIU, DOJ, FBI, and the IRTF	78	45
13-Aug-10	Fri	Phone call with MAJ Hurley who explained he is no longer detailed to the case	78	45
13-Aug-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	78	45
15-Aug-10	Sun	Email with LTC Greer to coordinate command visits to Quantico Brig	80	45
15-Aug-10	Sun	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	80	45
16-Aug-10	Mon	1st Armored Division USD-C AR 380-5 investigation completed IAW AR 15-6	81	45
16-Aug-10	Mon	Email with DOS for an update on the classification of actual "MRNs"	81	45
16-Aug-10	Mon	Email with DOS-informed DOS of upcoming OCA review request	81	45
16-Aug-10	Mon	Email with OGA2-coordinate for a meeting	81	45
16-Aug-10	Mon	Phone call with CWO4 Averhart to discuss Brig policies	81	45
16-Aug-10	Mon	Pulled MRNs from recovered unallocated space on the accused's computer (800 pgs)	81	45
16-Aug-10	Mon	Reviewed Brig SOP and SECNAV instruction	81	45
16-Aug-10	Mon	Reviewed printed forensic reports	81	45
16-Aug-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	81	45
16-Aug-10	Mon	Worked with PAO to answer AP query	81	45
17-Aug-10	Tue	Continued pulling MRNs from BM Computer	82	45
17-Aug-10	Tue	Email with DOS explaining "MRNs" are not classified, just the substance of the cables	82	45

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Date	Week Day	EVENT	Total Time	RCM 707 Clock
17-Aug-10	Tue	Meeting-with multiple OGAs to discuss what assistance could be given to law enforcement and potential discovery issues	82	45
17-Aug-10	Tue	Reworked checklist for PTC Visitation	82	45
17-Aug-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	82	45
17-Aug-10	Tue	Worked on H&W questionnaire for Chain of Command's Quantico visit	82	45
18-Aug-10	Wed	2/10 MTN RE-DEPLOYS TO FORT DRUM, NY	83	45
18-Aug-10	Wed	Email with DOS to discuss discovery	83	45
18-Aug-10	Wed	Email with Iraq TC - Classification of MRNs and requests for review of classified MRNs	83	45
18-Aug-10	Wed	Meeting-with CCIU, discussed subpoenas, discovery letters, and forensic analysis	83	45
18-Aug-10	Wed	Phone call with IRTF to discuss prosecution's access to the compromised datasets	83	45
18-Aug-10	Wed	Requested the master MRN list from CCIU	83	45
18-Aug-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	83	45
18-Aug-10	Wed	Worked on spreadsheet depicting the flow of MRNs through different digital media	83	45
19-Aug-10	Thu	Created evidence flow spreadsheet showing how to look up different cables on the NCD Portal	84	45
19-Aug-10	Thu	Email CPT Rose analysis of NCD portal and drafted template for classification review requests	84	45
19-Aug-10	Thu	Email with DIA-received response from DIA regarding IRTF request to review materials	84	45
19-Aug-10	Thu	Email with IRTF to understand what type of information was compromised and the extent of the compromise	84	45
19-Aug-10	Thu	Leader Professional Development Series	84	45
19-Aug-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	84	45
20-Aug-10	Fri	Drafted the Department of State Classification Review request	85	45
20-Aug-10	Fri	Media inquiry regarding the charge sheet	85	45
20-Aug-10	Fri	Reviewed templates for sample cover letter, affidavit, drafted requests for classification reviews	85	45
20-Aug-10	Fri	Sent classification review request thru OTJAG to DoD	85	45
20-Aug-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	85	45
22-Aug-10	Sun	Email Edited classification review requests	87	45

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Date	Week Day	EVENT	Total Time	RCM 707 Clock
22-Aug-10	Sun	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	87	45
23-Aug-10	Mon	Email with DOJ and CCIU discussing handwriting exemplars	88	45
23-Aug-10	Mon	Email with Dr. Sweda to re-ask what type of administrative records the board would like to review and what time frame they need	88	45
23-Aug-10	Mon	Media inquiry response	88	45
23-Aug-10	Mon	MG William Garrett approved the USF-I AR 15-6 investigation	88	45
23-Aug-10	Mon	Phone call with DOJ and CCIU discussing handwriting exemplars	88	45
23-Aug-10	Mon	Phone call with Dr. Sweda to discuss what type of information or records would the board like to review and what time frame they need	88	45
23-Aug-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	88	45
24-Aug-10	Tue	Communication with defense-MAJ Kemkes about sending the accused's medical records to the RCM 706 board	89	45
24-Aug-10	Tue	Communication with defense-MAJ Kemkes discussion about his role on the case and being the detailed military defense counsel	89	45
24-Aug-10	Tue	Continued reviewing forensic reports	89	45
24-Aug-10	Tue	Email with CPT Rose to get copies of all the documents originally provided to the defense at preferral so that they can be provided to the RCM 706 board	89	45
24-Aug-10	Tue	Gathered documents for RCM 706 board	89	45
24-Aug-10	Tue	Media inquiry response	89	45
24-Aug-10	Tue	Phone call with DIA	89	45
24-Aug-10	Tue	Requested accused's medical records for RCM 706 board members	89	45
24-Aug-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	89	45
25-Aug-10	Wed	SPC MCA APPROVES DEFENSE'S REQUEST FOR DELAY OF ARTICLE 32 INVESTIGATION (DEFENSE REQUEST: 25 AUG 2010)	90	45
25-Aug-10	Wed	ACCUSED RETAINS MR. DAVID COOMBS	90	45
25-Aug-10	Wed	DEFENSE REQUESTS DELAY OF RCM 706 BOARD UNTIL FORENSIC PSYCHIATRY EXPERT APPOINTED TO DEFENSE	90	45
25-Aug-10	Wed	Communication with defense-Mr. Coombs notified prosecution that he has been retained by the accused	90	45
25-Aug-10	Wed	Media inquiry response	90	45
25-Aug-10	Wed	Meeting-CCIU synchronization meeting and update	90	45
25-Aug-10	Wed	Meeting-Toured Quantico Brig and spoke with commander and SJA	90	45
25-Aug-10	Wed	Meeting-with DOJ, EDVA, and DIA	90	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
25-Aug-10	Wed	Phone call with EDVA, CES and DoD	90	45
25-Aug-10	Wed	SPCMCA Delay of Article 32 Investigation	90	45
25-Aug-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	90	45
26-Aug-10	Thu	DEFENSE REQUESTS DELAY OF RCM 706 BOARD UNTIL PROCEDURES ADOPTED TO SAFEGUARD CLASSIFIED INFORMATION	91	45
26-Aug-10	Thu	Communication with defense-defense notified RCM 706 board that they have security concerns about RCM 706 board	91	45
26-Aug-10	Thu	Communication with defense-Scheduled with defense counsel for 27 August 2010	91	45
26-Aug-10	Thu	Compared TC and DC discs from Iraq and noted discrepancies	91	45
26-Aug-10	Thu	Email To Dr. Sweda - Approved defense request for 706 Board delay	91	45
26-Aug-10	Thu	Email with CPT Morrow explaining the Brig is not authorized to hold classified information or have classified discussions and prosecution needs to find an alternate location for RCM 706 board	91	45
26-Aug-10	Thu	Email with CPT Rose requesting accused's OMPF, CID ROI, and Lamo sworn statement	91	45
26-Aug-10	Thu	Email with Dr. Sweda about rescheduling 706 Board for 27 August and inquiry regarding allied documents	91	45
26-Aug-10	Thu	Media inquiry response	91	45
26-Aug-10	Thu	Meeting-with EDVA	91	45
26-Aug-10	Thu	Read initial CID ROI from Camp Liberty field office	91	45
26-Aug-10	Thu	Received motion/request from defense counsel to comply with disclosure provisions	91	45
26-Aug-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	91	45
27-Aug-10	Fri	Communication with defense-with defense, where Mr. Coombs discussed whether separate protective orders need to be issued for the RCM 706 board members	92	45
27-Aug-10	Fri	Email Dr. Sweda - Initial interview of accused by 706 Board is rescheduled due to the approval of the defense delay request.	92	45
27-Aug-10	Fri	Email Drafted excel spreadsheet depicting which MRNs were found on accused's personal computer	92	45
27-Aug-10	Fri	Email TC synchronization meeting to discuss defense request for expert in forensic psychiatry, motion to comply with disclosure prohibitions, clearances for defense counsel, documents for 706 Board, finalization of OCA cover letters, scrubbing for cables to review	92	45
27-Aug-10	Fri	Media inquiry response	92	45
27-Aug-10	Fri	Meeting-with MDW security to receive read-on	92	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
27-Aug-10	Fri	Provided summary of brig tour	92	45
27-Aug-10	Fri	Researched issues relating to NDAs signed by the accused and developed a list of outstanding issues for case to discuss with MDW TCs	92	45
27-Aug-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	92	45
28-Aug-10	Sat	Email from Iraq TC about accused items in Kuwait	93	45
29-Aug-10	Sun	Email to Iraq TC about Kuwait records	94	45
30-Aug-10	Mon	Communication with defense-defense returned classified documents erroneously provided to defense without proper authority under Executive Order 12958, sections 4.1 and 4.2	95	45
30-Aug-10	Mon	Discussed the defense proffer regarding classified information to be disclosed to the 706 board with MDW TCs	95	45
30-Aug-10	Mon	Email with DIA-attended IRTF meeting	95	45
30-Aug-10	Mon	Media inquiry response	95	45
30-Aug-10	Mon	Meeting-with EDVA and DIA to discuss IRTF requests and discovery	95	45
30-Aug-10	Mon	Phone call with TCAP to discuss defense request for a forensic psychiatrist expert consultant	95	45
30-Aug-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	95	45
30-Aug-10	Mon	Worked on getting transcripts of accused's calls while in the TFCF	95	45
31-Aug-10	Tue	Email with SA Mander regarding seizure of NIPR Computers by CCIU	96	45
31-Aug-10	Tue	Media inquiry response	96	45
31-Aug-10	Tue	Phone call with Code 30 to discuss MRE 505	96	45
31-Aug-10	Tue	SPCMCA ordered RCM 706 Board for accused	96	45
31-Aug-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	96	45
1-Sep-10	Wed	Communication with defense-stated that their expert consultant would need a TS security clearance	97	45
1-Sep-10	Wed	Email conversations with COL Malone to locate available expert consultants with TS clearances for the defense	97	45
1-Sep-10	Wed	Email with COL Malone to identify a local expert forensic psychiatrist for the defense request	97	45
1-Sep-10	Wed	Email with OTJAG referencing security clearances and MRE 505	97	45
1-Sep-10	Wed	Media inquiry response	97	45
1-Sep-10	Wed	Meeting-CCIU synchronization meeting and obtain of interim forensic reports	97	45
1-Sep-10	Wed	Meeting-with EDVA and FBI	97	45
1-Sep-10	Wed	Phone call with CCIU	97	45



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Date	Week Day	EVENT	Total Time	RCM 707 Clock
1-Sep-10	Wed	Phone call with COL Malone to discuss availability of psychiatric expert consultants with TS clearances	97	45
1-Sep-10	Wed	Phone call with EDVA	97	45
1-Sep-10	Wed	Phone call with FBI	97	45
1-Sep-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	97	45
2-Sep-10	Thu	DEFENSE REQUESTS SECURITY CLEARANCE FOR EACH DEFENSE COUNSEL	98	45
2-Sep-10	Thu	DEFENSE REQUESTS ANY DEFENSE EXPERT POSSESS THE APPROPRIATE SECURITY CLEARANCE AND READ-ON REQUIREMENTS (TS-SCI)	98	45
2-Sep-10	Thu	Defense requested security clearance and authority to grant accused access to classified information	98	45
2-Sep-10	Thu	Defense requested that any defense expert have security clearance	98	45
2-Sep-10	Thu	Email with CCIU to request mental and medical records from CID	98	45
2-Sep-10	Thu	Media inquiry response	98	45
2-Sep-10	Thu	OTJAG began processing security clearances for defense and MRE 505	98	45
2-Sep-10	Thu	Worked affidavits to search pocket litter at confinement facility	98	45
2-Sep-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	98	45
2-Sep-10	Thu	Worked to coordinate recording within the brig	98	45
3-Sep-10	Fri	Media inquiry response	99	45
3-Sep-10	Fri	Training Holiday - Labor Day Holiday	99	45
3-Sep-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	99	45
6-Sep-10	Mon	Labor Day Holiday	102	45
6-Sep-10	Mon	Media inquiry response	102	45
6-Sep-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	102	45
7-Sep-10	Tue	Coordinated release of SOP, detainee handbook and visitor log	103	45
7-Sep-10	Tue	Media inquiry response	103	45
7-Sep-10	Tue	Phone call with OTJAG referencing security clearances and Apache Video classification review	103	45
7-Sep-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	103	45



Date	Week Day	EVENT	Total Time	RCM 707 Clock
8-Sep-10	Wed	Communication with defense-request defense counsel provide information for their security clearances	104	45
8-Sep-10	Wed	Email to CCIU Requesting documentation regarding accused's clearance level; trying to get defense equivalent clearances	104	45
8-Sep-10	Wed	Email with CCIU to determine the classification of the forensic reports and other evidence to gauge what classification the defense counsel and their experts would need	104	45
8-Sep-10	Wed	Media inquiry response	104	45
8-Sep-10	Wed	Meeting-CCIU synchronization meeting and update	104	45
8-Sep-10	Wed	Phone call with EDVA	104	45
8-Sep-10	Wed	Phone call with FBI	104	45
8-Sep-10	Wed	Phone call with MEDCOM OSJA about mental and medical records	104	45
8-Sep-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	104	45
9-Sep-10	Thu	2/10 MTN SHIPPING CONTAINERS (CONNEX) ARRIVE AT FORT DRUM, NY	105	45
9-Sep-10	Thu	Communication with defense-request defense counsel provide information for their security clearances	105	45
9-Sep-10	Thu	Email from COL Malone listing members of the 706 Board needing security access	105	45
9-Sep-10	Thu	Email from Dr. Sweda listing the clearance statuses of 706 Board members as well as the roles of personnel identified	105	45
9-Sep-10	Thu	Email to OTJAG with information on defense counsel security clearances	105	45
9-Sep-10	Thu	Media inquiry response	105	45
9-Sep-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	105	45
10-Sep-10	Fri	Drafted special security instructions for restarting RCM 706 board	106	45
10-Sep-10	Fri	Email from LTC Almanza regarding the estimated time of completion for the 706 Board	106	45
10-Sep-10	Fri	Email to LTC Almanza explaining the assigned defense counsel, delays of the Article 32 and 706 Board, and processing of the IO's security clearance	106	45
10-Sep-10	Fri	Email to LTC Almanza requesting information for security clearance	106	45
10-Sep-10	Fri	Email with 2/10 MTN about accused's uniforms	106	45
10-Sep-10	Fri	Email with COL Malone referencing contact information for COL Huff and the 706 Board	106	45
10-Sep-10	Fri	Email with DOS-checked-in with DOS regarding upcoming OCA review request	106	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
10-Sep-10	Fri	Email with OGA1 focused on how the DOD and the military justice system protects classified information, if its used during a trial	106	4S
10-Sep-10	Fri	Media inquiry response	106	4S
10-Sep-10	Fri	Meeting-with DIA and OTJAG	106	4S
10-Sep-10	Fri	Phone call with CCIU	106	4S
10-Sep-10	Fri	Phone call with EDVA about searches and seizures	106	4S
10-Sep-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	106	4S
12-Sep-10	Sun	Email Iraq TC for SAMs research and Article 13	108	4S
13-Sep-10	Mon	Communication with defense-providing an update on forensic psychologist expert, 706 Board members, and processing of security clearances	109	4S
13-Sep-10	Mon	Media inquiry response	109	4S
13-Sep-10	Mon	Phone call with CCIU synchronization meeting and update	109	4S
13-Sep-10	Mon	Phone call with EDVA	109	4S
13-Sep-10	Mon	Phone call with OTJAG requesting assistance from Army G2 for security experts and clearances for defense counsel	109	4S
13-Sep-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	109	4S
14-Sep-10	Tue	Email with OTJAG to discuss security experts for defense, Government, and Article 32 IO/Military Judge security manager	110	4S
14-Sep-10	Tue	Media inquiry response	110	4S
14-Sep-10	Tue	Meeting-with CID	110	4S
14-Sep-10	Tue	Meeting-with DOJ and DOS to discuss classification reviews, discovery, and the ongoing investigation	110	4S
14-Sep-10	Tue	Meeting-with FBI	110	4S
14-Sep-10	Tue	Phone call with FBI concerning pretrial confinement monitoring	110	4S
14-Sep-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	110	4S
15-Sep-10	Wed	Attempted to attend Quantico command meeting	111	4S
15-Sep-10	Wed	Communication with defense-defense requested an update on the classification reviews	111	4S
15-Sep-10	Wed	Communication with defense-defense requested the prosecution provide a timeline for when the RCM 706 will begin	111	4S
15-Sep-10	Wed	Communication with defense-with defense counsel discussing IMC request for CPT Bouchard and forensic psychiatrist for 706 Board	111	4S
15-Sep-10	Wed	Drafted questions for meeting with the Brig	111	4S
15-Sep-10	Wed	Email from OTJAG with potential names of security experts	111	4S

Date	Week Day	EVENT	Total Time	RCM 707 Clock
15-Sep-10	Wed	Media inquiry response	111	45
15-Sep-10	Wed	Meeting-CCIU synchronization meeting and update	111	45
15-Sep-10	Wed	Meeting-with Quantico Brig to discuss medical support	111	45
15-Sep-10	Wed	OTJAG identified security managers for the defense	111	45
15-Sep-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	111	45
16-Sep-10	Thu	Drafted request for monitoring at Brig	112	45
16-Sep-10	Thu	Email with company to coordinate accused's uniform delivery	112	45
16-Sep-10	Thu	Email with DOJ and EDVA concerning search issue follow-on	112	45
16-Sep-10	Thu	Media inquiry response	112	45
16-Sep-10	Thu	Phone call with DOJ and EDVA concerning search issue	112	45
16-Sep-10	Thu	Phone call with EDVA	112	45
16-Sep-10	Thu	SPCMCA requested monitoring accused's conversations at the Quantico Brig	112	45
16-Sep-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	112	45
16-Sep-10	Thu	Worked on evidentiary and case timeline for briefings to leadership	112	45
17-Sep-10	Fri	SPCMCA ISSUES PROTECTIVE ORDER GOVERNING CLASSIFIED INFORMATION	113	45
17-Sep-10	Fri	SPCMCA ORDERS PCRO #1	113	45
17-Sep-10	Fri	Brig sends signed memo agreeing to monitor the communications of accused	113	45
17-Sep-10	Fri	Charles Ganiel appointed as expert for defense	113	45
17-Sep-10	Fri	Email with company to coordinate accused's uniform delivery	113	45
17-Sep-10	Fri	Email with Mr. Hall to discuss expectations of being defense security expert	113	45
17-Sep-10	Fri	Media inquiry response	113	45
17-Sep-10	Fri	Meeting-with DOJ	113	45
17-Sep-10	Fri	Quantico commander agreed to monitor accused's communications	113	45
17-Sep-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	113	45
18-Sep-10	Sat	DEFENSE RESPONDS TO PCRO #1	114	45
18-Sep-10	Sat	Communication with defense-defense submitted response to PCRO to Fort Myer Garrison CDR, discussed Brig monitoring procedures, and possible lead on forensic psychiatrist with a TS-SCI clearance	114	45
18-Sep-10	Sat	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	114	45
20-Sep-10	Mon	Communication with defense	116	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
20-Sep-10	Mon	Communication with defense to discuss forensic psychiatry expert	116	45
20-Sep-10	Mon	Email from COL Malone indicating that he might have information on a civilian as a forensic psychiatrist	116	45
20-Sep-10	Mon	Email with COL Huff (USAF) who related that he would be unable to act as the defense expert in forensic psychiatry	116	45
20-Sep-10	Mon	Media inquiry response	116	45
20-Sep-10	Mon	Meeting-with LtCol Lyons to retrieve the visitor logs for Brig	116	45
20-Sep-10	Mon	Phone call with COL Huff (USAF) who related that he would be unable to act as the defense expert in forensic psychiatry	116	45
20-Sep-10	Mon	Phone call with Mr. Ganiel to discuss expectations of being defense security expert	116	45
20-Sep-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	116	45
20-Sep-10	Mon	Worked on various defense counsel requests – updating tracker, clarifying order to defense expert, looked at proposed defense counsel changes to protective order	116	45
21-Sep-10	Tue	Email with MDW security concerning access to classified information for accused	117	45
21-Sep-10	Tue	Media inquiry response	117	45
21-Sep-10	Tue	Meeting-CCIU synchronization meeting and update	117	45
21-Sep-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	117	45
22-Sep-10	Wed	SPCMCA ORDERS PCRO #2	118	45
22-Sep-10	Wed	Email with COL Malone to provide additional instructions to COL Malone regarding the 706 Board	118	45
22-Sep-10	Wed	Email with DA-discussed use of classified information during court-martial	118	45
22-Sep-10	Wed	Media inquiry response	118	45
22-Sep-10	Wed	Meeting-CCIU synchronization meeting and update	118	45
22-Sep-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	118	45
23-Sep-10	Thu	Email from COL Malone stating he may have candidates for forensic psychiatrists	119	45
23-Sep-10	Thu	Email with CCIU to obtain original classified documents from OGA1 to conduct forensic analysis	119	45
23-Sep-10	Thu	Email with COL Malone to obtain COL Benedek as forensic psychiatry expert	119	45
23-Sep-10	Thu	Email with DOJ-DOJ filed motion to disclose grand jury matters	119	45
23-Sep-10	Thu	Media inquiry response	119	45
23-Sep-10	Thu	Phone call with DOJ referencing handwriting exemplars	119	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
23-Sep-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	119	45
24-Sep-10	Fri	Communication with defense-Sent the preliminary classification review for accused to the defense and Mr. Coombs acknowledged	120	45
24-Sep-10	Fri	Email with 2/10 MTN to provide update on case and have accused assigned to MDW in the personnel system	120	45
24-Sep-10	Fri	Media inquiry response	120	45
24-Sep-10	Fri	Provided preliminary classification review of mental impressions to brig	120	45
24-Sep-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	120	45
26-Sep-10	Sun	Email about access to JWICS	122	45
26-Sep-10	Sun	Email to OGA1 about use of documents	122	45
27-Sep-10	Mon	Began working on new charges for the charge sheet	123	45
27-Sep-10	Mon	Email with CCIU	123	45
27-Sep-10	Mon	Email with OGA1 to initiate contact and setup a meeting with OGC	123	45
27-Sep-10	Mon	Media inquiry response	123	45
27-Sep-10	Mon	Meeting with DIA	123	45
27-Sep-10	Mon	Phone call with MEDCOM OSJA in reference to accused's behavioral health records	123	45
27-Sep-10	Mon	Researched ethics rules on contact with represented parties and whether CID could gather medical records for investigation	123	45
27-Sep-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	123	45
28-Sep-10	Tue	DEFENSE REQUESTS A SECOND DEFENSE SECURITY EXPERT TO ASSIST WITH PCRO #2	124	45
28-Sep-10	Tue	Communication with defense to discuss PCRO issues from defense security experts	124	45
28-Sep-10	Tue	Coordinated the inmate signature on monitoring agreement	124	45
28-Sep-10	Tue	Defense made requests in response to PCR	124	45
28-Sep-10	Tue	Email with MEDCOM OSJA in reference to accused's behavioral health records	124	45
28-Sep-10	Tue	Media inquiry response	124	45
28-Sep-10	Tue	Meeting-CCIU synchronization meeting and update	124	45
28-Sep-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	124	45
28-Sep-10	Tue	Worked on monitoring memorandum	124	45
29-Sep-10	Wed	Communication with defense-who notifies the prosecution that the defense potential forensic psychiatrist is deploying	125	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
29-Sep-10	Wed	Drafted several memorandums for SPCMCA (e.g. excludable delay, 2nd security expert, forensic psychiatry expert action)	125	45
29-Sep-10	Wed	Email with DOJ-DOJ informed prosecution that judge signed order disclosing grand jury matters to prosecution	125	45
29-Sep-10	Wed	Email with MEDCOM OSJA in reference to accused's behavioral health records	125	45
29-Sep-10	Wed	Media inquiry response	125	45
29-Sep-10	Wed	Reviewed Response to defense Request to Amend Protective Order	125	45
29-Sep-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	125	45
29-Sep-10	Wed	Worked on Excludable Delay Memo Draft	125	45
30-Sep-10	Thu	Determined it was appropriate to keep medical and behavioral health records based on MEDCOM Regulation	126	45
30-Sep-10	Thu	Email with CIDC to identify a SCIF to conduct the PCRO interview	126	45
30-Sep-10	Thu	Email with DA-discussed classification reviews and evidence	126	45
30-Sep-10	Thu	Email with MEDCOM OSJA who determined it was appropriate to keep medical and behavioral health records based on MEDCOM regulations	126	45
30-Sep-10	Thu	Email with OTJAG discussing allowing accused to discuss classified material with defense attorneys	126	45
30-Sep-10	Thu	Media inquiry response	126	45
30-Sep-10	Thu	Meeting-with MDW security in reference to clearances	126	45
30-Sep-10	Thu	Phone call with OTJAG discussing SCIF venues for any meetings that need to occur	126	45
30-Sep-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	126	45
1-Oct-10	Fri	Communication-Defense Counsel- SCIF & expert statuses	127	45
1-Oct-10	Fri	Email with OGC, OGA to coordinate a meeting	127	45
1-Oct-10	Fri	Media inquiry response	127	45
1-Oct-10	Fri	Phone call with OGA1	127	45
1-Oct-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	127	45
4-Oct-10	Mon	Drafted multiple emails with OTJAG outlining a course of action in reference to the defense's request for access to classified information and stating that accused can discuss classified info with defense	130	45
4-Oct-10	Mon	Email with OTJAG in reference to accused discussing classified information with defense counsel	130	45
4-Oct-10	Mon	Media inquiry response	130	45
4-Oct-10	Mon	Meeting-with MDW security about storage of classified information for defense counsel	130	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
4-Oct-10	Mon	Phone call with DIA	130	45
4-Oct-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	130	45
5-Oct-10	Tue	Media inquiry response	131	45
5-Oct-10	Tue	Meeting with CID	131	45
5-Oct-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	131	45
6-Oct-10	Wed	Media inquiry response	132	45
6-Oct-10	Wed	Meeting with OGA1 for investigative leads and approvals	132	45
6-Oct-10	Wed	Phone call with J6, MDW (SIPR and JWICS access)	132	45
6-Oct-10	Wed	Phone call with OSJA	132	45
6-Oct-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	132	45
7-Oct-10	Thu	Communication with defense to discuss SCIF venue for with defense counsel and security experts	133	45
7-Oct-10	Thu	Media inquiry response	133	45
7-Oct-10	Thu	Phone call with INSCOM OSJA about RCM 706 board location within a SCIF	133	45
7-Oct-10	Thu	Phone call with J6, MDW	133	45
7-Oct-10	Thu	Phone call with MDW security office	133	45
7-Oct-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	133	45
8-Oct-10	Fri	Media inquiry response	134	45
8-Oct-10	Fri	Phone call William Johnson	134	45
8-Oct-10	Fri	Phone call with OSJA, CENTCOM	134	45
8-Oct-10	Fri	Training Holiday - Columbus Day Holiday	134	45
8-Oct-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	134	45
10-Oct-10	Sun	Email notification that CCIU began developing a program to track Department of State MRNs	136	45
10-Oct-10	Sun	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	136	45
11-Oct-10	Mon	Columbus Day Holiday	137	45
11-Oct-10	Mon	Draft SPCMCA accounting of excludable delay memorandum	137	45
11-Oct-10	Mon	Media inquiry response	137	45
11-Oct-10	Mon	Phone call with proposed defense psychiatry expert	137	45
11-Oct-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	137	45

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Date	Week Day	EVENT	Total Time	RCM 707 Clock
12-Oct-10	Tue	SPCMCA APPOINTS A SECOND DEFENSE SECURITY EXPERT TO ASSIST WITH PCRO #2 (DEFENSE REQUEST, 28 SEP 10)	138	45
12-Oct-10	Tue	SPCMCA APPOINTS EXPERT CONSULTANT IN FORENSIC PSYCHIATRY FOR DEFENSE (DEFENSE REQUEST, 25 AUG 10)	138	45
12-Oct-10	Tue	Communication with defense-defense requested contact information for the second defense security expert	138	45
12-Oct-10	Tue	Communication with defense-with defense to confirm the CIDC facility is adequate for the PCR, also discussed client meetings at Quantico Brig and the RCM 706 board	138	45
12-Oct-10	Tue	Email to Mr. Hall notifying him he is appointed as the second defense expert	138	45
12-Oct-10	Tue	Email with CIDC to use their facility and for rehearsal of accused's movement	138	45
12-Oct-10	Tue	Email with command to ensure proper frequency of visits to Quantico Brig	138	45
12-Oct-10	Tue	Email with INSCOM-sent INSCOM SPCMCA order re: approved facility and storage for classified information	138	45
12-Oct-10	Tue	Media inquiry response	138	45
12-Oct-10	Tue	Meeting-CCIU synchronization meeting and update	138	45
12-Oct-10	Tue	Reviewed FBI timeline	138	45
12-Oct-10	Tue	SPCMCA Accounting of Excludable Delay Memorandum	138	45
12-Oct-10	Tue	SPCMCA responded to defense request to amend protective order	138	45
12-Oct-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	138	45
13-Oct-10	Wed	Communication with defense-defense requested contact information for COL Benedek and Cassius Hall	139	45
13-Oct-10	Wed	Communication with defense-with defense, forwarded excludable delay memo; memo for appointment of 2d defense security expert, memo for defense forensic psychiatry expert, response to defense request to amend the protective order, and approved facility and storage of classified information	139	45
13-Oct-10	Wed	Media inquiry response	139	45
13-Oct-10	Wed	Meeting-with DES security to discuss movement and security of the accused	139	45
13-Oct-10	Wed	Meeting-with DOJ	139	45
13-Oct-10	Wed	Meeting-with FBI and CCIU, received update	139	45
13-Oct-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	139	45
14-Oct-10	Thu	Communication with defense-defense inquired when the government will complete the arrangement for the transportation of the accused from Quantico to the PCR location	140	45



Date	Week Day	EVENT	Total Time	RCM 707 Clock
14-Oct-10	Thu	Compiled list of unclass docs to give defense	140	45
14-Oct-10	Thu	Email from LTC Almanza regarding when the RCM 706 board should be finished	140	45
14-Oct-10	Thu	Media inquiry response	140	45
14-Oct-10	Thu	Meeting-with DOJ 2	140	45
14-Oct-10	Thu	Meeting-with OGA1 for investigative leads and approvals	140	45
14-Oct-10	Thu	Meeting-with OSJA	140	45
14-Oct-10	Thu	Phone call with DOJ 1	140	45
14-Oct-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	140	45
15-Oct-10	Fri	Email to Dr. Sweda to inform him that the 706 Board is still delayed for clearance purposes	141	45
15-Oct-10	Fri	Email with CCIU to request a search for requested MRNs and develop a way to track them	141	45
15-Oct-10	Fri	Email with CDC to coordinate travel for the accused to SCIF, including security information	141	45
15-Oct-10	Fri	Email with DA-discussed preliminary classification review	141	45
15-Oct-10	Fri	Email with Quantico Brig to coordinate receiving copies of weekly updates	141	45
15-Oct-10	Fri	Media inquiry response	141	45
15-Oct-10	Fri	Meeting-MDW TC Meeting (all cases)	141	45
15-Oct-10	Fri	Phone call with OSJA (all cases)	141	45
15-Oct-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	141	45
15-Oct-10	Fri	Worked on discovery of unclass file	141	45
16-Oct-10	Sat	Phone call with DOJ	142	45
16-Oct-10	Sat	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	142	45
18-Oct-10	Mon	Email from LTC Almanza regarding when the RCM 706 board should be finished	144	45
18-Oct-10	Mon	Email with CENTCOM-prosecution received original classification review for Apache video	144	45
18-Oct-10	Mon	Email with DA-discussed evidence classification	144	45
18-Oct-10	Mon	Media inquiry response	144	45
18-Oct-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	144	45
18-Oct-10	Mon	Worked on discovery of unclass file	144	45
19-Oct-10	Tue	Communication with defense- to discuss timeline for defense experts, the PCRO rehearsal, COL Benedek's role in the RCM 706 board	145	45
19-Oct-10	Tue	Communication with defense-defense inquired whether the convening authority had a date for the PCR to be complete	145	45

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Date	Week Day	EVENT	Total Time	RCM 707 Clock
19-Oct-10	Tue	Communication with defense-defense requested an update on the rehearsal, the contact information for the accused's movement, how often the defense security experts can meet with the accused at the PCR location, and whether there are any day/time restrictions on their meetings	145	45
19-Oct-10	Tue	Email with CCIU to receive feedback on MRN RFI	145	45
19-Oct-10	Tue	Media inquiry response	145	45
19-Oct-10	Tue	Meeting-with CIDC security expert for rehearsal of PCRO	145	45
19-Oct-10	Tue	Phone call with CIDC security expert for rehearsal of PCRO	145	45
19-Oct-10	Tue	Rehearsal for accused Interview at FIU facility	145	45
19-Oct-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	145	45
19-Oct-10	Tue	Worked on discovery of unclass file	145	45
20-Oct-10	Wed	Email with CENTCOM-discuss classification review	146	45
20-Oct-10	Wed	Email with DA-discussed evidence classification	146	45
20-Oct-10	Wed	Media inquiry response	146	45
20-Oct-10	Wed	Meeting-at Quantico Brig with DES for brief regarding escorts	146	45
20-Oct-10	Wed	Phone call with CCIU to discuss Intelink and the CIDNE charges	146	45
20-Oct-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	146	45
21-Oct-10	Thu	Communication with defense to coordinate accused's interview at the CIDC facility	147	45
21-Oct-10	Thu	Communication with defense-defense inquired whether he can pick up the unclassified CID file and other discovery	147	45
21-Oct-10	Thu	Communication with defense-defense requested additional information for their security experts in preparation of the PCR	147	45
21-Oct-10	Thu	Informed Quantico Brig of defense team members	147	45
21-Oct-10	Thu	Media inquiry response	147	45
21-Oct-10	Thu	Meeting-with FBI and DIA	147	45
21-Oct-10	Thu	Meeting-witness interview for US v. Carter	147	45
21-Oct-10	Thu	Phone call with DOJ	147	45
21-Oct-10	Thu	Phone call with OSJA	147	45
21-Oct-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	147	45
22-Oct-10	Fri	Communication-emailed bates stamped unclassified documents previously disclosed to the defense and all other documentation up until the accused retained Mr. Coombs as counsel	148	45
22-Oct-10	Fri	Discovery production: Bates # 00000001 - 00000429 (429 pages), including Preferal Packet [Unclassified]	148	45
22-Oct-10	Fri	Email with CENTCOM-prosecution received centcom classification guides for PCRO	148	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
22-Oct-10	Fri	Media inquiry response	148	45
22-Oct-10	Fri	Phone call with DOJ	148	45
22-Oct-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	148	45
22-Oct-10	Fri	Worked on discovery of unclassified file	148	45
25-Oct-10	Mon	Email with CCIU to receive additional feedback on MRN RFI	151	45
25-Oct-10	Mon	Media inquiry response	151	45
25-Oct-10	Mon	Reviewed product developed by CCIU to track MRN	151	45
25-Oct-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	151	45
26-Oct-10	Tue	Developed list of issues for the CCIU, including gathering a list of logs, making sure CCIU met with CIDNE expert from IRTF	152	45
26-Oct-10	Tue	Email with DIA-requested to attend IRTF meeting	152	45
26-Oct-10	Tue	Emergency Leave (funeral)	152	45
26-Oct-10	Tue	Media inquiry response	152	45
26-Oct-10	Tue	Meeting-with DIA, CID, FBI, and DOJ	152	45
26-Oct-10	Tue	Phone call with CPT Casamatta	152	45
26-Oct-10	Tue	Phone call with OSJA	152	45
26-Oct-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	152	45
26-Oct-10	Tue	Worked with Fort Myer DES to transport accused to FIU for MTG	152	45
27-Oct-10	Wed	DEFENSE SECURITY EXPERTS INTERVIEW ACCUSED FOR PCR	153	45
27-Oct-10	Wed	Email with DIA-attended IRTF meeting	153	45
27-Oct-10	Wed	Media inquiry response	153	45
27-Oct-10	Wed	Meeting-with CCIU and FBI to receive update on investigation, discussed DOS firewall logs, interviews of OGA2 employees, and search warrants	153	45
27-Oct-10	Wed	Meeting-with SPCMCA	153	45
27-Oct-10	Wed	PCR Interview - Manning TS-5CI for all personnel recommended	153	45
27-Oct-10	Wed	Phone call with FBI	153	45
27-Oct-10	Wed	Phone call with SPCMCA	153	45
27-Oct-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	153	45
28-Oct-10	Thu	DEFENSE REQUESTS FOR APPOINTMENT OF EXPERT IN INFORMATION ASSURANCE TO DEFENSE TEAM	154	45
28-Oct-10	Thu	Email with CCIU, investigative lead for "R13" cable	154	45
28-Oct-10	Thu	Media inquiry response	154	45
28-Oct-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	154	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
29-Oct-10	Fri	Defense submitted discovery request	155	45
29-Oct-10	Fri	Defense submitted requests in response to PCR	155	45
29-Oct-10	Fri	Email with DA-discussed method of classification research	155	45
29-Oct-10	Fri	Phone call with CCIU	155	45
29-Oct-10	Fri	Phone call with OTJAG in reference to handling, use, or discovery of classified information	155	45
29-Oct-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	155	45
29-Oct-10	Fri	Worked on gathering information responsive to the defense's request dated 29 Oct for the defense experts (BM training records, etc)	155	45
30-Oct-10	Sat	Email with OSJA, FORSCOM about Apache classification review from 1CAV	156	45
30-Oct-10	Sat	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	156	45
1-Nov-10	Mon	Communication with defense-defense requested the prosecution provide its security experts with the classification guide used to classify the information, and the link to the video that was allegedly released by the accused	158	45
1-Nov-10	Mon	Communication with defense-defense requested the prosecution provide its security experts with the damage assessments conducted by the OCAs	158	45
1-Nov-10	Mon	Media inquiry response	158	45
1-Nov-10	Mon	Phone call with OSJA	158	45
1-Nov-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	158	45
1-Nov-10	Mon	Worked on issues with the preliminary classification reviews	158	45
2-Nov-10	Tue	Drafted summary of discussion with defense counsel for prosecution records	159	45
2-Nov-10	Tue	Email with DIA-discussed timing of the case	159	45
2-Nov-10	Tue	Email with OTJAG to review memo requesting defense security experts access to certain classified material and SIPRNET and JWICS	159	45
2-Nov-10	Tue	Media inquiry response	159	45
2-Nov-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	159	45
2-Nov-10	Tue	Worked on access authorization request for defense security experts	159	45
3-Nov-10	Wed	Media inquiry response	160	45
3-Nov-10	Wed	Phone call with MDW security	160	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
3-Nov-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	160	45
4-Nov-10	Thu	Communication with defense to obtain signatures of protective orders and SIPRNET/JWICS access for security experts	161	45
4-Nov-10	Thu	Email with COL Malone, stated he can provide care for accused, in the absence of the USN provider, as he possesses the proper clearance and has already developed a history with accused	161	45
4-Nov-10	Thu	Email with DOS-received response and received request to meet	161	45
4-Nov-10	Thu	Media inquiry response	161	45
4-Nov-10	Thu	Phone call with DIA	161	45
4-Nov-10	Thu	Phone call with DOJ and EDVA	161	45
4-Nov-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	161	45
5-Nov-10	Fri	CPT Bouchard signs acknowledgement of protective order	162	45
5-Nov-10	Fri	Email with DA-discussed approval process	162	45
5-Nov-10	Fri	Media inquiry response	162	45
5-Nov-10	Fri	SPCMCA requested defense access to classified information	162	45
5-Nov-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	162	45
7-Nov-10	Sun	During review of Information Review Task Force (IRTF) material, became aware that ONCIX was starting a similar review	164	45
7-Nov-10	Sun	Reviewed IRTF documents on JWICS; downloaded all the Department of State cables for potentially charging	164	45
7-Nov-10	Sun	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	164	45
8-Nov-10	Mon	Coombs signs acknowledgement of protective order	165	45
8-Nov-10	Mon	Email with CCIU, discussed forensic exams with SA Shaver	165	45
8-Nov-10	Mon	Kemkes signs acknowledgement of protective order	165	45
8-Nov-10	Mon	Media inquiry response	165	45
8-Nov-10	Mon	Phone call with CCIU	165	45
8-Nov-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	165	45
9-Nov-10	Tue	Draft SPCMCA accounting of excludable delay memorandum	166	45
9-Nov-10	Tue	Email with DIA-coordinate for a meeting	166	45
9-Nov-10	Tue	Email with DSS-Contacted DSS	166	45
9-Nov-10	Tue	Media inquiry response	166	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
9-Nov-10	Tue	Meeting-with CCIU to discuss investigation update, forensics, dates for chat logs, SOUTHCOM docs on SIPR computer, evidence of Farah downloads	166	45
9-Nov-10	Tue	Meeting-with DOS legal advisers, briefed them on what we needed to prosecute and the ongoing process of determining the proper OCA to review specific documents	166	45
9-Nov-10	Tue	Phone call with DIA	166	45
9-Nov-10	Tue	Phone call with MDW security	166	45
9-Nov-10	Tue	Phone call with OSJA	166	45
9-Nov-10	Tue	Phone call with OTJAG in reference to handling, use, or discovery of classified information	166	45
9-Nov-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	166	45
10-Nov-10	Wed	Asst. Deputy Chief of Staff, G2 granted request for defense access to Classified Material / Army Systems	167	45
10-Nov-10	Wed	Delivered classified information to Department of State for review	167	45
10-Nov-10	Wed	Discovery production: Bates # 00000430 - 00000450 (21 pages), including Initial Article 32 Packet [Unclassified]	167	45
10-Nov-10	Wed	Email with DA-received G2 approval to disclose to defense	167	45
10-Nov-10	Wed	Email with DIA-prosecution emailed state department cables to be printed in bulk by DIA	167	45
10-Nov-10	Wed	Email with HQDA-confirmed receipt	167	45
10-Nov-10	Wed	Email with HQDA-prosecution sent documents for informal classification review	167	45
10-Nov-10	Wed	Email with OTJAG and HQDA to discuss classification review of DA and DOD information	167	45
10-Nov-10	Wed	Media inquiry response	167	45
10-Nov-10	Wed	Meeting with SPCMCA to discuss accounting of excludable delay memorandum	167	45
10-Nov-10	Wed	Meeting-with DOS to pick up printed copies of documents	167	45
10-Nov-10	Wed	Phone call with CCIU	167	45
10-Nov-10	Wed	Phone call with DOS	167	45
10-Nov-10	Wed	Phone call with OSJA	167	45
10-Nov-10	Wed	SPCMCA Accounting of Excludable Delay Memorandum	167	45
10-Nov-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	167	45
11-Nov-10	Thu	Discovery production: Bates # 00000451 - 00000474 (24 pages), including Initial Article 32 Packet [Unclassified]	168	45
11-Nov-10	Thu	Media inquiry response	168	45
11-Nov-10	Thu	Phone call with CPT Casamatta	168	45
11-Nov-10	Thu	Veterans Day Holiday	168	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
11-Nov-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	168	45
12-Nov-10	Fri	Email with DOS	169	45
12-Nov-10	Fri	Media inquiry response	169	45
12-Nov-10	Fri	Phone call with OSJA	169	45
12-Nov-10	Fri	Training Holiday - Veterans Day Holiday	169	45
12-Nov-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	169	45
15-Nov-10	Mon	Defense submitted a discovery request	172	45
15-Nov-10	Mon	Media inquiry response	172	45
15-Nov-10	Mon	Reviewed forensics for information relating to CIDNE documents	172	45
15-Nov-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	172	45
16-Nov-10	Tue	Communication with defense-defense requested coordination for the accused's movement, so that defense security experts can meet with the accused	173	45
16-Nov-10	Tue	Communication with defense-to discuss meeting date with accused outside of Quantico Brig	173	45
16-Nov-10	Tue	Email with DIA-discussed WGET test	173	45
16-Nov-10	Tue	Email with OTJAG and HQDA including documents to be reviewed	173	45
16-Nov-10	Tue	Media inquiry response	173	45
16-Nov-10	Tue	Meeting-with FBI agent (interview for employment of prior subordinate)	173	45
16-Nov-10	Tue	Meeting-with OGA1 to discuss investigative leads and potential use of documents	173	45
16-Nov-10	Tue	Phone call with DIA	173	45
16-Nov-10	Tue	Phone call with OSJA	173	45
16-Nov-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	173	45
17-Nov-10	Wed	Media inquiry response	174	45
17-Nov-10	Wed	Meeting-with IRTF focused on compromised information	174	45
17-Nov-10	Wed	Phone call with DOJ	174	45
17-Nov-10	Wed	Phone call with INSCOM OSJA about RCM 706 board location within a SCIF	174	45
17-Nov-10	Wed	Phone call with OSJA	174	45
17-Nov-10	Wed	Updated defense request log	174	45
17-Nov-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	174	45
18-Nov-10	Thu	Media inquiry response	175	45



Date	Week Day	EVENT	Total Time	RCM 707 Clock
18-Nov-10	Thu	OSIA Thanksgiving Lunch @ Fort Myer	175	45
18-Nov-10	Thu	Phone call with CCIU	175	45
18-Nov-10	Thu	Phone call with CPT Casamatta	175	45
18-Nov-10	Thu	Reviewed CIDNE-I documents for charging decision	175	45
18-Nov-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	175	45
19-Nov-10	Fri	Discovery production: Bates # 00000475 - 00000662 (188 pages), including Initial Article 32 Packet [Unclassified]	176	45
19-Nov-10	Fri	Email with defense security expert-prosecution emailed defense security expert MNF-I SCG for preliminary class review	176	45
19-Nov-10	Fri	Media inquiry response	176	45
19-Nov-10	Fri	Phone call with OSIA	176	45
19-Nov-10	Fri	Phone call with SPCMCA	176	45
19-Nov-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	176	45
20-Nov-10	Sat	Email from Iraq TC about audio recording in Kuwait RCF	177	45
21-Nov-10	Sun	Email to Iraq TC	178	45
22-Nov-10	Mon	Communication with defense-to discuss all outstanding issues	179	45
22-Nov-10	Mon	Email with CENTCOM-discussed evidence	179	45
22-Nov-10	Mon	Media inquiry response	179	45
22-Nov-10	Mon	Phone call with CCIU	179	45
22-Nov-10	Mon	Phone call with FBI	179	45
22-Nov-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	179	45
23-Nov-10	Tue	Media inquiry response	180	45
23-Nov-10	Tue	Phone call with CENTCOM	180	45
23-Nov-10	Tue	Phone call with OGA1 to discuss the requirement for written requests	180	45
23-Nov-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	180	45
24-Nov-10	Wed	Email with DIA-received recommendations on charging CIDNE reports	181	45
24-Nov-10	Wed	Email with DOS to inform the us that they finished their preliminary review of the proposed cables and are ready to schedule a meeting	181	45
24-Nov-10	Wed	Media inquiry response	181	45
24-Nov-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	181	45
25-Nov-10	Thu	Media inquiry response	182	45
25-Nov-10	Thu	Thanksgiving Day Holiday	182	45



Date	Week Day	EVENT	Total Time	RCM 707 Clock
25-Nov-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	182	45
26-Nov-10	Fri	Media inquiry response	183	45
26-Nov-10	Fri	Phone call with DIA	183	45
26-Nov-10	Fri	Training Holiday - Thanksgiving Day Holiday	183	45
26-Nov-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	183	45
28-Nov-10	Sun	Email with DIA-prosecution confirmed receipt of CIDNE-I reports for charging decision	185	45
28-Nov-10	Sun	Requested information from OGA1 to assist in on-going investigation	185	45
28-Nov-10	Sun	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	185	45
29 Nov 10	Mon	DEFENSE REQUESTS FOR APPOINTMENT OF INVESTIGATOR TO DEFENSE TEAM	186	45
29-Nov-10	Mon	Communication with defense-defense requested an update on when the new charge sheet will be preferred and on POI restrictions for the accused, as well as requested coordination for the defense's meeting with the accused and the results of computer forensics	186	45
29-Nov-10	Mon	Defense submitted miscellaneous requests	186	45
29-Nov-10	Mon	Media inquiry response	186	45
29-Nov-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	186	45
30-Nov-10	Tue	Communication with defense to discuss all outstanding issues	187	45
30-Nov-10	Tue	Communication with defense-defense inquired whether the accused can have hand and leg restraints removed during defense meeting	187	45
30-Nov-10	Tue	Communication with defense-defense requested that defense counsel meetings take place at the TDS office or an office under the control of the SJA	187	45
30-Nov-10	Tue	Communication with defense-defense requested that the accused wear ACUs during defense meeting	187	45
30-Nov-10	Tue	Email to OGA1 with request for assistance	187	45
30-Nov-10	Tue	Email with CENTCOM-requested evidence	187	45
30-Nov-10	Tue	Email with DA-requested classification review and assistance for IA expert	187	45
30-Nov-10	Tue	Email with DOS-request to meet regarding document review	187	45
30-Nov-10	Tue	Email with Quantico to coordinate accused's mother visiting the Brig and possibility of relaxing the POI status	187	45
30-Nov-10	Tue	Media inquiry response	187	45

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Date	Week Day	EVENT	Total Time	RCM 707 Clock
30-Nov-10	Tue	Meeting-with DOS to discuss charged documents and classification review	187	45
30-Nov-10	Tue	Requested support for defense IA expert	187	45
30-Nov-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	187	45
1-Dec-10	Wed	Email with DOS-meeting regarding document review	188	45
1-Dec-10	Wed	Media inquiry response	188	45
1-Dec-10	Wed	Meeting-with DOS and DOS FOIA	188	45
1-Dec-10	Wed	Meeting-with MDW for space utilization	188	45
1-Dec-10	Wed	Phone call with DOJ	188	45
1-Dec-10	Wed	Received official response from brig commander regarding POI reduction	188	45
1-Dec-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	188	45
2-Dec-10	Thu	Media inquiry response	189	45
2-Dec-10	Thu	Meeting-with CCIU and DOJ to discuss external hard drive	189	45
2-Dec-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	189	45
3-Dec-10	Fri	Email to RCM 706 board members and defense counsel with order attached	190	45
3-Dec-10	Fri	Email with OGA1 to clarify request	190	45
3-Dec-10	Fri	Media inquiry response	190	45
3-Dec-10	Fri	Phone call with OGA1 to clarify request	190	45
3-Dec-10	Fri	Requested IA Expert for defense	190	45
3-Dec-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	190	45
3-Dec-10	Fri	Worked on request for forensic psychiatrist	190	45
4-Dec-10	Sat	Created "smart paper" regarding POI and custody classifications	191	45
4-Dec-10	Sat	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	191	45
6-Dec-10	Mon	Email TC meeting concerning Brig	193	45
6-Dec-10	Mon	Email with CCIU in reference to the accused medical records	193	45
6-Dec-10	Mon	Email with HQDA-prosecution sent sample declaration for classification review	193	45
6-Dec-10	Mon	Email with OTJAG and DOD along with CIDNE datasets for classification review	193	45
6-Dec-10	Mon	Media inquiry response	193	45
6-Dec-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	193	45

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Date	Week Day	EVENT	Total Time	RCM 707 Clock
7-Dec-10	Tue	Media inquiry response	194	45
7-Dec-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	194	45
8-Dec-10	Wed	Communication with defense-defense requested coordination for the accused's movement for defense meeting on 14-15 Dec 10	195	45
8-Dec-10	Wed	Defense submits discovery request	195	45
8-Dec-10	Wed	Email coordinated move of accused to meet with defense counsel on Ft Myer	195	45
8-Dec-10	Wed	Email coordinated the retrieval of accused's uniforms from the prosecution	195	45
8-Dec-10	Wed	Email with CENTCOM-discussed evidence	195	45
8-Dec-10	Wed	Media inquiry response	195	45
8-Dec-10	Wed	Meeting-with CCIU	195	45
8-Dec-10	Wed	Meeting-with IRTF to determine what type of information could be downloaded in CIDNE	195	45
8-Dec-10	Wed	Received info about supply person from 10 MTN involved in the case	195	45
8-Dec-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	195	45
9-Dec-10	Thu	Completed smart paper regarding POI and custody classifications	196	45
9-Dec-10	Thu	Media inquiry response	196	45
9-Dec-10	Thu	Meeting-with FBI and EDVA	196	45
9-Dec-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	196	45
10-Dec-10	Fri	Email with DA-followed up defense request for IA expert	197	45
10-Dec-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	197	45
12-Dec-10	Sun	Phone call witness interview with CPT Martin	199	45
12-Dec-10	Sun	Phone call witness interview with MSG Adkins	199	45
12-Dec-10	Sun	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	199	45
13 Dec 10	Mon	PCR COMPLETE	200	45
13-Dec-10	Mon	Email with COL Malone focused on logistical issues of expediting clearances for 706 members	200	45
13-Dec-10	Mon	Email with DIA-received additional information on extent of compromise	200	45
13-Dec-10	Mon	Media inquiry response	200	45
13-Dec-10	Mon	Phone call with DOJ	200	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
13-Dec-10	Mon	Received update on forensic examination of SD card discovered at the accused's aunt's house; discussed travel to New York with CCIU	200	45
13-Dec-10	Mon	Reviewed 902nd Investigation	200	45
13-Dec-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	200	45
14-Dec-10	Tue	Drafted email for MDW SJA to send to COL Darpino regarding closed CID report	201	45
14-Dec-10	Tue	Email with INSCOM-prosecution received IMFRs relating to MI investigation	201	45
14-Dec-10	Tue	Media inquiry response	201	45
14-Dec-10	Tue	Meeting-with OGA1 and CCIU	201	45
14-Dec-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	201	45
15-Dec-10	Wed	Communication with defense-meeting with defense counsel scheduled but cancelled due to weather	202	45
15-Dec-10	Wed	Media inquiry response	202	45
15-Dec-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	202	45
16-Dec-10	Thu	Communication with defense counsel to discuss various issues	203	45
16-Dec-10	Thu	Draft SPCMCA accounting of excludable delay memorandum	203	45
16-Dec-10	Thu	Media inquiry response	203	45
16-Dec-10	Thu	Phone call with CCIU to receive update	203	45
16-Dec-10	Thu	Secretary Army directed LTG Caslen to conduct AR 15-6 investigation into the accused's alleged crimes	203	45
16-Dec-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	203	45
17-Dec-10	Fri	SPCMCA DENIES DEFENSE REQUEST FOR APPOINTMENT OF INVESTIGATOR TO DEFENSE TEAM (DEFENSE REQUEST, 29 NOV 10)	204	45
17-Dec-10	Fri	Media inquiry response	204	45
17-Dec-10	Fri	Meeting with SPCMCA to discuss accounting of excludable delay memorandum	204	45
17-Dec-10	Fri	Phone call witness interview with CW2 Ehresman	204	45
17-Dec-10	Fri	Phone call witness interview with WO1 Balonek	204	45
17-Dec-10	Fri	SPCMCA Accounting of Excludable Delay Memorandum	204	45
17-Dec-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	204	45
18-Dec-10	Sat	Communication with defense-defense requested the names of those members on the RCM 706 board	205	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
18-Dec-10	Sat	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	205	45
19-Dec-10	Sun	Communication with defense-received digital copy of completed SF 86 from Mr. Coombs	206	45
19-Dec-10	Sun	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	206	45
20-Dec-10	Mon	Email requested CIDNE-A samples from CCIU	207	45
20-Dec-10	Mon	Email to LTC Almanza explaining the RCM 706 board will likely to start after new year	207	45
20-Dec-10	Mon	Media inquiry response	207	45
20-Dec-10	Mon	Meeting-with CCIU	207	45
20-Dec-10	Mon	Meeting-with CCIU, EDVA, and DOJ about prosecutorial coordination	207	45
20-Dec-10	Mon	Phone call with DOJ for forensic update	207	45
20-Dec-10	Mon	Received SITREP from movement team regarding accused	207	45
20-Dec-10	Mon	With OSJA to coordinate Quantico Brig confinement conditions	207	45
20-Dec-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	207	45
21-Dec-10	Tue	Communication with defense-possible additional charges, different forensic psychiatrists, disclosures by the defense under MRE 505(h) and the RCM 706 board, and POI status	208	45
21-Dec-10	Tue	Email from Dr. Sweda and CPT Benesh confirming appointment to 706 Board	208	45
21-Dec-10	Tue	Email received substitute name and information for clearance processing of new 706 Board member	208	45
21-Dec-10	Tue	Email with CENTCOM-requested evidence	208	45
21-Dec-10	Tue	Email with INSCOM-prosecution was notified of other documents in the MI investigative files	208	45
21-Dec-10	Tue	Media inquiry response	208	45
21-Dec-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	208	45
22-Dec-10	Wed	Email with CENTCOM-prosecution confirmed receipt of ROI	209	45
22-Dec-10	Wed	Email with DIA about CIDNE data	209	45
22-Dec-10	Wed	Email with DIA-requested follow-up for CIDNE-A samples	209	45
22-Dec-10	Wed	Email with DOS-received update regarding document review	209	45
22-Dec-10	Wed	Email with DOS-requested update regarding document review	209	45
22-Dec-10	Wed	Email with INSCOM-prosecution requested copies of all the exhibits in the MI investigative files	209	45
22-Dec-10	Wed	Media inquiry response	209	45
22-Dec-10	Wed	Reviewed and provided comments to AP query	209	45

APPELLATE EXHIBIT \_\_\_\_\_

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Date	Week Day	EVENT	Total Time	RCM 707 Clock
22-Dec-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	209	45
23-Dec-10	Thu	Email with DOS focused on additional charges/charging documents, and update on status of document classification review	210	45
23-Dec-10	Thu	Media inquiry response	210	45
23-Dec-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	210	45
24-Dec-10	Fri	Christmas Day Holiday	211	45
24-Dec-10	Fri	Media inquiry response	211	45
24-Dec-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	211	45
26-Dec-10	Sun	Email from witness to setup a time for interview	213	45
27-Dec-10	Mon	Email with DA-discussed security clearances	214	45
27-Dec-10	Mon	Media inquiry response	214	45
27-Dec-10	Mon	Training Holiday - Christmas Day Holiday	214	45
27-Dec-10	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	214	45
28-Dec-10	Tue	Media inquiry response	215	45
28-Dec-10	Tue	Researched case law regarding PTC	215	45
28-Dec-10	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	215	45
29-Dec-10	Wed	Drafted MFR documenting mental health records reviewed for MRE 513	216	45
29-Dec-10	Wed	Email with DA-discussed 706 logistics	216	45
29-Dec-10	Wed	Email with Quantico Brig to coordinate releasing the weekly reports to defense	216	45
29-Dec-10	Wed	Email with Quantico to coordinate phone records retrieval	216	45
29-Dec-10	Wed	Media inquiry response	216	45
29-Dec-10	Wed	Phone call with OGC, DISA	216	45
29-Dec-10	Wed	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	216	45
30-Dec-10	Thu	Communication with defense-defense submitted MRE 505(h) motion for RCM 706 board; if MRE 505(h) notice is unnecessary, defense requested the authority saying so	217	45
30-Dec-10	Thu	Media inquiry response	217	45
30-Dec-10	Thu	Meeting-with DISA analyst to discuss web analysis	217	45
30-Dec-10	Thu	Meeting-with Sec Army 15-6 team to discuss investigate lanes	217	45
30-Dec-10	Thu	Meeting-witness interview with CPT Lim at Fort Meade, MD	217	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
30-Dec-10	Thu	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	217	45
31-Dec-10	Fri	Media inquiry response	218	45
31-Dec-10	Fri	New Year's Holiday	218	45
31-Dec-10	Fri	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	218	45
1-Jan-11	Sat	Email from Sec Army 15-6 about sworn statements	219	45
1-Jan-11	Sat	Email to Sec Army 15-6 about sworn statements	219	45
2-Jan-11	Sun	Email with CENTCOM-requested classification review	220	45
2-Jan-11	Sun	Phone call with CCIU	220	45
2-Jan-11	Sun	Phone call with OSJA	220	45
2-Jan-11	Sun	Phone call with TCAP	220	45
2-Jan-11	Sun	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	220	45
3-Jan-11	Mon	Developed course of action relating to the Secretary of the Army AR 15-6 investigation	221	45
3-Jan-11	Mon	Discovery production: Bates # 00000663 - 00000771 (109 pages), including Preliminary Inquiry [Unclassified]	221	45
3-Jan-11	Mon	Media inquiry response	221	45
3-Jan-11	Mon	Meeting-with DISA and CCIU to discuss web analysis	221	45
3-Jan-11	Mon	Phone call with CCIU	221	45
3-Jan-11	Mon	Phone call with EDVA	221	45
3-Jan-11	Mon	Phone call with OSJA	221	45
3-Jan-11	Mon	Phone call with TCAP	221	45
3-Jan-11	Mon	Researched unauthorized possession under 18 USC 1030	221	45
3-Jan-11	Mon	Training Holiday - New Year's Holiday	221	45
3-Jan-11	Mon	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	221	45
4-Jan-11	Tue	Email with INSCOM-prosecution received multiple emails containing investigation files from military intelligence	222	45
4-Jan-11	Tue	Email with Office of Legal Policy regarding marine IG investigation	222	45
4-Jan-11	Tue	Media inquiry response	222	45
4-Jan-11	Tue	Meeting-TDY to Fort Drum for witness interviews	222	45
4-Jan-11	Tue	Phone call with 2/10 MTN to prepare for TDY	222	45
4-Jan-11	Tue	Phone call with CCIU	222	45
4-Jan-11	Tue	Phone call with EDVA and DOJ	222	45
4-Jan-11	Tue	Phone call with OSJA	222	45
4-Jan-11	Tue	Phone call with Sec Army 15-6 team	222	45
4-Jan-11	Tue	Phone call with TCAP	222	45



Date	Week Day	EVENT	Total Time	RCM 707 Clock
4-Jan-11	Tue	Worked generally to identify compromised information, develop evidence and witnesses, and identify potentially discoverable material and associated equity holders	222	45
5-Jan-11	Wed	Communication with defense in reference to his belief that he must give MRE 505(h)(1) notice for RCM 706 board	223	45
5-Jan-11	Wed	Communication with defense-defense submitted memorandum requesting change of the accused's classification and assignment	223	45
5-Jan-11	Wed	Communication with defense-with CPT Patrick Sheldon, TDS, spoke with potential witness who invoked her rights	223	45
5-Jan-11	Wed	Communication with defense-with defense to confirm receipt of request to change pretrial confinement classification status	223	45
5-Jan-11	Wed	Defense requested change to POI status	223	45
5-Jan-11	Wed	Media inquiry response	223	45
5-Jan-11	Wed	Meeting-TDY to Fort Drum for witness interviews (all day)	223	45
5-Jan-11	Wed	Phone call with CCIU	223	45
5-Jan-11	Wed	Phone call with OSJA	223	45
5-Jan-11	Wed	Phone call with Sec Army 15-6 team 1	223	45
5-Jan-11	Wed	Phone call with Sec Army 15-6 team 2	223	45
5-Jan-11	Wed	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	223	45
6-Jan-11	Thu	Email with DA-updated security clearance discussions	224	45
6-Jan-11	Thu	Media inquiry response	224	45
6-Jan-11	Thu	Meeting-TDY to Fort Drum for witness interviews (all day)	224	45
6-Jan-11	Thu	Phone call with CCIU	224	45
6-Jan-11	Thu	Phone call with DOS in reference to classification reviews and document selection	224	45
6-Jan-11	Thu	Phone call with OSJA	224	45
6-Jan-11	Thu	Phone call with Sec Army 15-6 team 1	224	45
6-Jan-11	Thu	Phone call with Sec Army 15-6 team 2	224	45
6-Jan-11	Thu	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	224	45
7-Jan-11	Fri	Email with CENTCOM in reference to OCA coordination for confidential markings and Garani video	225	45
7-Jan-11	Fri	Email with CENTCOM-discussed classification of evidence	225	45
7-Jan-11	Fri	Media inquiry response	225	45
7-Jan-11	Fri	Meeting-TDY to Fort Drum for witness interviews (all day)	225	45
7-Jan-11	Fri	Phone call with CCIU	225	45
7-Jan-11	Fri	Phone call with DOS 1	225	45
7-Jan-11	Fri	Phone call with DOS 2	225	45
7-Jan-11	Fri	Phone call with OSJA	225	45
7-Jan-11	Fri	Phone call with TCAP	225	45



Date	Week Day	EVENT	Total Time	RCM 707 Clock
7-Jan-11	Fri	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	225	45
8-Jan-11	Sat	Phone call with CCIU	226	45
8-Jan-11	Sat	Phone call with OSJA	226	45
8-Jan-11	Sat	Phone call with Sec Army 15-6 team	226	45
8-Jan-11	Sat	Phone call with TCAP	226	45
8-Jan-11	Sat	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	226	45
9-Jan-11	Sun	Communication with defense-defense requested speedy trial	227	45
9-Jan-11	Sun	Meeting-with CCIU and disc pickup	227	45
9-Jan-11	Sun	Phone call with CCIU	227	45
9-Jan-11	Sun	Phone call with FBI	227	45
9-Jan-11	Sun	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	227	45
10-Jan-11	Mon	Defense submitted discovery request	228	45
10-Jan-11	Mon	Media inquiry response	228	45
10-Jan-11	Mon	Phone call with CCIU	228	45
10-Jan-11	Mon	Phone call with OTJAG in reference to handling, use, or discovery of classified information	228	45
10-Jan-11	Mon	Reviewed all the classified documents requested by the Secretary of the Army AR 15-6 team	228	45
10-Jan-11	Mon	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	228	45
11-Jan-11	Tue	Email with INSCOM-prosecution received multiple emails containing investigation files from military intelligence	229	45
11-Jan-11	Tue	Media inquiry response	229	45
11-Jan-11	Tue	Meeting-with DISA	229	45
11-Jan-11	Tue	Meeting-with OGA1	229	45
11-Jan-11	Tue	Phone call with DOS	229	45
11-Jan-11	Tue	Phone call with OSJA	229	45
11-Jan-11	Tue	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	229	45
12-Jan-11	Wed	Communication with defense-defense requested CAPT Moore replace COL Benedek as forensic psychiatrist assigned to the defense team	230	45
12-Jan-11	Wed	Defense requested forensic psychiatry expert	230	45
12-Jan-11	Wed	Email with DOS-arranged meeting	230	45
12-Jan-11	Wed	Media inquiry response	230	45
12-Jan-11	Wed	Phone call with DOS focused on classification review and end-products for trial	230	45
12-Jan-11	Wed	Phone call with Sec Army 15-6 team	230	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
12-Jan-11	Wed	Phone call with Sec Army 15-6 team legal advisor	230	45
12-Jan-11	Wed	Researched MRE 505(h) notification issues	230	45
12-Jan-11	Wed	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	230	45
12-Jan-11	Wed	Worked on Secretary of the Army AR 15-6 coordination and review	230	45
13-Jan-11	Thu	CAPT Hocter leaves the brig and COL Malone assumes care of all patients including accused	231	45
13-Jan-11	Thu	Communication with defense-defense requested speedy trial	231	45
13-Jan-11	Thu	Communication with defense-defense requested that the prosecution respond in writing to RCM 305(g) request	231	45
13-Jan-11	Thu	Communication with defense-with defense to discuss update on case, discussed POI status, clearances for defense team, medical records, expert requests, RCM 305(g) request	231	45
13-Jan-11	Thu	Draft SPCMCA accounting of excludable delay memorandum	231	45
13-Jan-11	Thu	Email with DA-requested information regarding defense IA expert request	231	45
13-Jan-11	Thu	Email with DA-submitted clearance requests for defense	231	45
13-Jan-11	Thu	Email with DIA-informed prosecution that NCIX wanted to meet to discuss NCIX plans to compile a damage assessment	231	45
13-Jan-11	Thu	Email with MEDCOM to determine whether medical interns should assist in accused's mental health coverage	231	45
13-Jan-11	Thu	Media inquiry response	231	45
13-Jan-11	Thu	Phone call with 2/10 MTN leadership	231	45
13-Jan-11	Thu	Phone call with CCIU	231	45
13-Jan-11	Thu	Phone call with OGC, ODNI	231	45
13-Jan-11	Thu	Phone call with OSJA	231	45
13-Jan-11	Thu	Phone call with Sec Army 15-6 team	231	45
13-Jan-11	Thu	Phone call with TCAP	231	45
13-Jan-11	Thu	Received assistance coordinating meetings with ONCIX to discuss ONCIX's charter regarding damage assessments	231	45
13-Jan-11	Thu	Requested access to classified information for civilian defense counsel	231	45
13-Jan-11	Thu	Requested security clearance for prosecution, defense, RCM 706 board, and IO	231	45
13-Jan-11	Thu	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	231	45
14-Jan-11	Fri	SPCMCA APPOINTS EXPERT IN INFORMATION AWARENESS TO DEFENSE TEAM (DEFENSE REQUEST, 28 OCT 10)	232	45
14-Jan-11	Fri	Discovery production: Bates # 00000772 - 00000851 (80 pages), including 15-6 Investigation [Unclassified]	232	45
14-Jan-11	Fri	Drafted response to defense's MRE 505(h) Request	232	45
14-Jan-11	Fri	Email with DA-received update for information regarding defense IA expert request	232	45

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Date	Week Day	EVENT	Total Time	RCM 707 Clock
14-Jan-11	Fri	Email with HQDA-prosecution sent redacted documents for SecArmy 15-6 to DA	232	45
14-Jan-11	Fri	Email with INSCOM-coordinate for a phone meeting	232	45
14-Jan-11	Fri	Email with investigator-prosecution sent all the MI investigative files to the SA 15-6 team	232	45
14-Jan-11	Fri	Media inquiry response	232	45
14-Jan-11	Fri	Meeting with SPCMCA to discuss accounting of excludable delay memorandum	232	45
14-Jan-11	Fri	Phone call with CCIU	232	45
14-Jan-11	Fri	Phone call with EDVA focusing on subpoena returns	232	45
14-Jan-11	Fri	Phone call with HQDA ACICA	232	45
14-Jan-11	Fri	Phone call with J6, MDW	232	45
14-Jan-11	Fri	Phone call with OTJAG in reference to handling, use, or discovery of classified information	232	45
14-Jan-11	Fri	Phone call with SPCMCA	232	45
14-Jan-11	Fri	Phone call with TCAP	232	45
14-Jan-11	Fri	Phone call witness interviews with additional 2/10 MTN individuals not previously available (all day)	232	45
14-Jan-11	Fri	Received name of defense IA expert	232	45
14-Jan-11	Fri	SPCMCA Accounting of Excludable Delay Memorandum	232	45
14-Jan-11	Fri	SPCMCA approved defense expert forensic psychiatry, CAPT Moore	232	45
14-Jan-11	Fri	Training Holiday - Martin Luther King Jr. Holiday	232	45
14-Jan-11	Fri	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	232	45
15-Jan-11	Sat	Reviewed AIRs and sworn statements from military intelligence	233	45
16-Jan-11	Sun	Phone call with OSJA	234	45
16-Jan-11	Sun	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	234	45
17-Jan-11	Mon	Martin Luther King Jr. Holiday	235	45
17-Jan-11	Mon	Media inquiry response	235	45
17-Jan-11	Mon	Phone call with TCAP	235	45
17-Jan-11	Mon	Requested chain of command have proper clearances for case to MDW Security Manager	235	45
17-Jan-11	Mon	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	235	45
17-Jan-11	Mon	Worked on additional charges and specifications	235	45
18-Jan-11	Tue	Communication with defense-to provide contact information for defense IA Expert	236	45
18-Jan-11	Tue	Email with CPT Ley to confirm emails and affidavits by SA Graham for Search and Seizure Auths.	236	45
18-Jan-11	Tue	Email with DA-discussed classification review declarations	236	45

APPELLATE EXHIBIT \_\_\_\_\_

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Date	Week Day	EVENT	Total Time	RCM 707 Clock
18-Jan-11	Tue	Email with HQDA-sent draft affidavit	236	45
18-Jan-11	Tue	Email with investigator-prosecution re-sent all the MI investigative files to the SA 15-6 team	236	45
18-Jan-11	Tue	Media inquiry response	236	45
18-Jan-11	Tue	Phone call with CCIU to focus on other documents found on accused's SIPR	236	45
18-Jan-11	Tue	Phone call with TCAP	236	45
18-Jan-11	Tue	Reviewed draft classification review declarations; worked on draft charges and specifications	236	45
18-Jan-11	Tue	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	236	45
18-Jan-11	Tue	Worked on getting contact information for potential witnesses 1	236	45
18-Jan-11	Tue	Worked on getting contact information for potential witnesses 2	236	45
19-Jan-11	Wed	Communication with defense-defense requested that Quantico brig commander discuss the Article 138 complaint with COL Malone	237	45
19-Jan-11	Wed	Communication with defense-defense submitted Article 138 complaint	237	45
19-Jan-11	Wed	Communication with defense-defense submitted preservation request	237	45
19-Jan-11	Wed	Media inquiry response	237	45
19-Jan-11	Wed	Phone call with DIA	237	45
19-Jan-11	Wed	Phone call with OSJA	237	45
19-Jan-11	Wed	Phone call witness interview with additional 2/10 MTN individual	237	45
19-Jan-11	Wed	Requested Original Classification Authority (OCA) review by DoD	237	45
19-Jan-11	Wed	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	237	45
19-Jan-11	Wed	Worked on additional charges and specifications	237	45
19-Jan-11	Wed	Worked on getting potential witnesses TDY to MDW for interviews with prosecution and AR 15-6 team	237	45
20-Jan-11	Thu	Communication with defense-to discuss confinement conditions	238	45
20-Jan-11	Thu	Email with Quantico Brig to be informed that Mr. Coombs spoke with Brig about confinement conditions	238	45
20-Jan-11	Thu	Media inquiry response	238	45
20-Jan-11	Thu	Phone call with SPCMCA	238	45
20-Jan-11	Thu	SPCMCA requested release of Quantico Brig documents	238	45
20-Jan-11	Thu	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	238	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
20-Jan-11	Thu	Worked on additional charges and specifications	238	45
20-Jan-11	Thu	Worked on getting the video footage from the TFCF in theatre regarding accused's collapse	238	45
21-Jan-11	Fri	Communication with defense-to discuss MRE 505 and defense "need to know"	239	45
21-Jan-11	Fri	Drafted RCM 305(g) response	239	45
21-Jan-11	Fri	Email from SFC Carlile directing members of the defense team and LTC Hemphill (RCM 706 Board) to have their fingerprints taken to expedite clearance investigations, assisted the civilian defense counsel in finding a place to complete the fingerprint requirements	239	45
21-Jan-11	Fri	Email to personnel requiring TS Clearances detailing pre-requisite completion instructions	239	45
21-Jan-11	Fri	IO granted TS-SCI Clearance	239	45
21-Jan-11	Fri	Media inquiry response	239	45
21-Jan-11	Fri	Meeting-with CCIU, FBI, and EDVA focusing on forensic update	239	45
21-Jan-11	Fri	Meeting-witness interviews with additional 2/10 MTN individuals not previously available	239	45
21-Jan-11	Fri	Notified that CW4 Averhart is leaving the brig	239	45
21-Jan-11	Fri	Phone call with COL Malone to discuss POI status of accused	239	45
21-Jan-11	Fri	Phone call with HQDA Security Clearance Office to discuss TS/SCI clearances for defense, RCM 706 board, and Article 32 IO	239	45
21-Jan-11	Fri	Phone call with OSJA	239	45
21-Jan-11	Fri	Phone call with OTJAG in reference to handling, use, or discovery of classified information	239	45
21-Jan-11	Fri	Phone call with Sec Army 15-6 team	239	45
21-Jan-11	Fri	Received notification from HQDA G2 that additional information is needed of RCM 706 board member to process the eEquip application	239	45
21-Jan-11	Fri	SPCMCA denied defense RCM 305(g) request	239	45
21-Jan-11	Fri	SPCMCA submitted request to reduce POI	239	45
21-Jan-11	Fri	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	239	45
21-Jan-11	Fri	Worked on clearances for defense team	239	45
21-Jan-11	Fri	Worked on completing requirements for TS-SCI clearance	239	45
22-Jan-11	Sat	RCM 706 board member completed fingerprints which were sent to the investigations office	240	45
22-Jan-11	Sat	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	240	45
22-Jan-11	Sat	Worked on completing requirements for TS-SCI clearance	240	45
23-Jan-11	Sun	Communication with defense-concerning a "non-attribution discussion" in reference to the likely additional charges and types of evidence	241	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
23-Jan-11	Sun	Phone call with DOJ	241	45
23-Jan-11	Sun	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	241	45
23-Jan-11	Sun	Worked on completing requirements for TS-SCI clearance	241	45
24-Jan-11	Mon	Communication with defense-defense requested coordination to meet with the accused at Fort Myer on 11 Feb 11	242	45
24-Jan-11	Mon	Communication-coordinated with defense for visit of accused to Fort Myer	242	45
24-Jan-11	Mon	Media inquiry response	242	45
24-Jan-11	Mon	Phone call with CCIU	242	45
24-Jan-11	Mon	Phone call with OSJA	242	45
24-Jan-11	Mon	Phone call with TCAP	242	45
24-Jan-11	Mon	Received information on new Brig Commanding Officer	242	45
24-Jan-11	Mon	Received report that David House was unable to visit the accused due to expired tags	242	45
24-Jan-11	Mon	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	242	45
24-Jan-11	Mon	Worked on additional charges and specifications	242	45
24-Jan-11	Mon	Worked on completing requirements for TS-SCI clearance	242	45
25-Jan-11	Tue	Email to LTC Alamanza to outline read-on procedures for clearance and scheduling of 32 with 32 IO	243	45
25-Jan-11	Tue	Media inquiry response	243	45
25-Jan-11	Tue	Notified the defense, IO, and other necessary parties that they are ready to schedule their indoctrination for clearance purposes	243	45
25-Jan-11	Tue	Phone call with OSJA	243	45
25-Jan-11	Tue	Updated the IO with the current status of the Article 32 delay, and that the IO will not be available during the time other parties are read on	243	45
25-Jan-11	Tue	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	243	45
25-Jan-11	Tue	Worked on additional charges and specifications	243	45
25-Jan-11	Tue	Worked on completing requirements for TS-SCI clearance and scheduled indoctrinations for all parties	243	45
26-Jan-11	Wed	Completed requirements for TS-SCI Clearance and scheduled indoctrinations for prosecution and defense members	244	45
26-Jan-11	Wed	Defense counsel notified the prosecution that he will not redeploy from Iraq until May and will fall under 25th Infantry Division	244	45
26-Jan-11	Wed	Email with HQDA-prosecution coordinated for read-on for defense counsel	244	45
26-Jan-11	Wed	Media inquiry response	244	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
26-Jan-11	Wed	Meeting-with FBI and DIA in reference to investigation, Garani video, and CIDNE background	244	45
26-Jan-11	Wed	Notified the IO to schedule read on	244	45
26-Jan-11	Wed	Phone call with DIA	244	45
26-Jan-11	Wed	Phone call with DOJ	244	45
26-Jan-11	Wed	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	244	45
27-Jan-11	Thu	Communication with defense-Received Request for SCI access for Defense counsel from Regional Defense Counsel	245	45
27-Jan-11	Thu	LTC Hemphill (706 Board Member) states that he will attempt to make the final corrections to his eQuip form today	245	45
27-Jan-11	Thu	Media inquiry response	245	45
27-Jan-11	Thu	Meeting-with DOJ	245	45
27-Jan-11	Thu	Meeting-with DOS to give case update	245	45
27-Jan-11	Thu	Meeting-with IRTF and FBI	245	45
27-Jan-11	Thu	Phone call with OSJA	245	45
27-Jan-11	Thu	Quantico MCB responds to SPCMCA request	245	45
27-Jan-11	Thu	Received defense request for SCI access from Regional Defense Counsel	245	45
27-Jan-11	Thu	Requested INSCOM SCIF for RCM 706 board	245	45
27-Jan-11	Thu	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	245	45
27-Jan-11	Thu	Worked on completing requirements for TS-SCI clearance and scheduled indoctrinations for all parties	245	45
27-Jan-11	Thu	Worked on special security instructions for the RCM 706 inquiry	245	45
28-Jan-11	Fri	Communication with defense-defense requested whether the Quantico SJA had released the requested brig documents concerning the accused's classification and assignment to the prosecution and whether there is an investigation into why the accused was placed on suicide risk	246	45
28-Jan-11	Fri	Drafted memorandum for Brig identifying the members of defense team	246	45
28-Jan-11	Fri	Email with MDW security to explain HQDA security clearance process	246	45
28-Jan-11	Fri	Emailled INSCOM DSJA to request space to conduct the RCM 706 Board	246	45
28-Jan-11	Fri	Media inquiry response	246	45
28-Jan-11	Fri	Phone call with DOS to receive update on charged document review	246	45
28-Jan-11	Fri	Phone call with Fort Meade OSJA	246	45
28-Jan-11	Fri	Phone call with OSJA	246	45
28-Jan-11	Fri	Phone call with OTJAG in reference to handling, use, or discovery of classified information	246	45



Date	Week Day	EVENT	Total Time	RCM 707 Clock
28-Jan-11	Fri	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	246	45
28-Jan-11	Fri	Worked on additional charges and specifications	246	45
28-Jan-11	Fri	Worked on completing requirements for TS-SCI clearance and scheduled indoctrinations for all parties	246	45
28-Jan-11	Fri	Worked on getting a response from 2/10 MTN regarding accused's counseling packet	246	45
29-Jan-11	Sat	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	247	45
29-Jan-11	Sat	Worked on additional charges and specifications	247	45
29-Jan-11	Sat	Worked on getting a response from 2/10 MTN regarding accused's counseling packet	247	45
31-Jan-11	Mon	All RCM 706 BOARD MEMBERS GRANTED SECURITY CLEARANCE (TS SCI) AND READ-ON (SCI)	249	45
31-Jan-11	Mon	CIVILIAN COUNSEL, MR. DAVID COOMBS, GRANTED TOP SECRET SECURITY CLEARANCE	249	45
31-Jan-11	Mon	All RCM 706 members read-on	249	45
31-Jan-11	Mon	Email Civilian Defense Counsel granted TS-SCI, awaiting read on	249	45
31-Jan-11	Mon	Email with MDW security to explain HQDA security clearance process	249	45
31-Jan-11	Mon	Indoctrination for TS-SCI clearance	249	45
31-Jan-11	Mon	IO is read-on for TS-SCI clearance	249	45
31-Jan-11	Mon	Media inquiry response	249	45
31-Jan-11	Mon	Phone call with DOJ	249	45
31-Jan-11	Mon	Phone call with OSJA	249	45
31-Jan-11	Mon	Phone call with USN Code 30	249	45
31-Jan-11	Mon	Received clearance status update from HQDA, ODCS	249	45
31-Jan-11	Mon	Reviewed Secretary of the Army AR 15-6 exhibit list	249	45
31-Jan-11	Mon	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	249	45
31-Jan-11	Mon	Worked on additional charges and specifications	249	45
31-Jan-11	Mon	Worked on completing requirements for TS-SCI clearance and scheduled indoctrinations for all parties	249	45
1-Feb-11	Tue	Civilian defense counsel advised that indoctrination will be scheduled soon	250	45
1-Feb-11	Tue	Communication with defense-defense requested confirmation on brig visiting hours	250	45
1-Feb-11	Tue	CPT Bouchard, defense counsel, read on	250	45
1-Feb-11	Tue	Email coordinated read-on for Mr. Coombs in Charlottesville, VA	250	45
1-Feb-11	Tue	Email with ADLAW department to respond to FOIA requests	250	45



Date	Week Day	EVENT	Total Time	RCM 707 Clock
1-Feb-11	Tue	Lillian Smith, a defense security expert, sent information needed to expedite clearance to prosecution team	250	45
1-Feb-11	Tue	Media inquiry response	250	45
1-Feb-11	Tue	RCM 706 Board coordination	250	45
1-Feb-11	Tue	Received exhibit list from Secretary of the Army AR 15-6	250	45
1-Feb-11	Tue	Received information about accused's mother would be visiting the brig	250	45
1-Feb-11	Tue	Received information that distinguished visitors would be visiting the brig	250	45
1-Feb-11	Tue	Reviewed draft language proposed by Department of State	250	45
1-Feb-11	Tue	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	250	45
1-Feb-11	Tue	Worked on additional charges and specifications	250	45
2-Feb-11	Wed	Email from OGA1 with request to obtain list of DOS cables	251	45
2-Feb-11	Wed	Email with HQDA-prosecution requested use of certain documents for charging	251	45
2-Feb-11	Wed	Media inquiry response	251	45
2-Feb-11	Wed	Meeting-with NCIX to understand what they are doing and the damage assessment process	251	45
2-Feb-11	Wed	Phone call with COL Malone to discuss confinement status	251	45
2-Feb-11	Wed	Phone call with INSCOM DSJA for executing the RCM 706 board	251	45
2-Feb-11	Wed	RCM 706 board coordination	251	45
2-Feb-11	Wed	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	251	45
3-Feb-11	Thu	SPCMCA ORDERS RCM 706 RESUMED	252	45
3-Feb-11	Thu	CIVILIAN COUNSEL, MR. DAVID COOMBS, READ ON (SCI)	252	45
3-Feb-11	Thu	Communication with defense-discussion of various issues	252	45
3-Feb-11	Thu	Discussed defense discovery requests	252	45
3-Feb-11	Thu	Media inquiry response	252	45
3-Feb-11	Thu	Meeting-with OSJA	252	45
3-Feb-11	Thu	Phone call with CCIU	252	45
3-Feb-11	Thu	Prepared MRE 505 rebuttal	252	45
3-Feb-11	Thu	RCM 706 board coordination	252	45
3-Feb-11	Thu	Submitted request to INSCOM for support with RCM 706 board	252	45
3-Feb-11	Thu	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	252	45
3-Feb-11	Thu	Worked on getting charge sheet preferred	252	45
3-Feb-11	Thu	Worked with OCAs to get disclosure authority for defense	252	45
4-Feb-11	Fri	Email to OGA1 with request for approval to charge documents	253	45
4-Feb-11	Fri	Email with DOS-received update regarding document review	253	45
4-Feb-11	Fri	Media inquiry response	253	45
4-Feb-11	Fri	Phone call with JIEDDO to discuss damage	253	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
4-Feb-11	Fri	Phone call with OSJA	253	45
4-Feb-11	Fri	Phone call with TCAP	253	45
4-Feb-11	Fri	RCM 706 board coordination	253	45
4-Feb-11	Fri	Received draft Secretary of the Army AR 15-6 for review	253	45
4-Feb-11	Fri	Reviewed documents included in the Farah AR 15-6 investigation for charging decision	253	45
4-Feb-11	Fri	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	253	45
4-Feb-11	Fri	Worked on additional charges and specifications	253	45
5-Feb-11	Sat	Phone call with CCIU	254	45
5-Feb-11	Sat	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	254	45
7-Feb-11	Mon	Background interview for TS/SCI clearance	256	45
7-Feb-11	Mon	Communication with defense-defense notified RCM 706 board that the board should feel free to take the time necessary to conduct a thorough and complete examination, and that any request for an extension of time by the board would undoubtedly be granted	256	45
7-Feb-11	Mon	Communication with defense-defense requested that Dr. Sweda allow the defense psychiatric expert to observe the 706 Board Proceedings	256	45
7-Feb-11	Mon	Copied prom orders for trials involving Article 104 and Article 80 offenses	256	45
7-Feb-11	Mon	Email coordinated delivery of allied documents to Dr. Sweda via MAJ Benesh	256	45
7-Feb-11	Mon	Email coordinated with brig and unit for movement of accused	256	45
7-Feb-11	Mon	Email notified Brig of accused's mother visiting	256	45
7-Feb-11	Mon	Email with CENTCOM-discussed approval	256	45
7-Feb-11	Mon	Email with company commander regarding accused's counseling packet	256	45
7-Feb-11	Mon	Email with DA-received update on classification review	256	45
7-Feb-11	Mon	Email with DIA-requested assistance regarding technical equipment	256	45
7-Feb-11	Mon	Media inquiry response	256	45
7-Feb-11	Mon	Phone call with 2/10 MTN	256	45
7-Feb-11	Mon	Phone call with DOS to finalize selection of charging documents	256	45
7-Feb-11	Mon	Phone call with TCAP	256	45
7-Feb-11	Mon	RCM 706 board coordination	256	45
7-Feb-11	Mon	RCM 706 board member signed protective order and acknowledgement of protective order	256	45
7-Feb-11	Mon	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	256	45

APPELLATE EXHIBIT

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Date	Week Day	EVENT	Total Time	RCM 707 Clock
8-Feb-11	Tue	Media inquiry response	257	45
8-Feb-11	Tue	Meeting-with TCAP	257	45
8-Feb-11	Tue	Phone call with 2/10 MTN	257	45
8-Feb-11	Tue	Phone call with JIEDDO	257	45
8-Feb-11	Tue	Phone call with OGA1	257	45
8-Feb-11	Tue	Phone call with OSJA	257	45
8-Feb-11	Tue	Phone call with OTJAG in reference to handling, use, or discovery of classified information	257	45
8-Feb-11	Tue	RCM 706 board coordination	257	45
8-Feb-11	Tue	RCM 706 board member signed acknowledgement of protective order	257	45
8-Feb-11	Tue	Received WikiLeaks affidavit and complaint from CID	257	45
8-Feb-11	Tue	Reviewed appellate records at ACCA	257	45
8-Feb-11	Tue	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	257	45
8-Feb-11	Tue	Worked on additional charges and specifications	257	45
9-Feb-11	Wed	Defense received USD-C AR 15-6 investigative file	258	45
9-Feb-11	Wed	Delivered accused's documents to RCM 706 board members	258	45
9-Feb-11	Wed	Discovery production: Bates # 00000852 - 00001049 (198 pages), including Medical Records [Unclassified]	258	45
9-Feb-11	Wed	Discovery production: Bates # 00001050 - 00001051 (2 pages), including Certificate of Service - to Liberty TDS [Unclassified]	258	45
9-Feb-11	Wed	Email with Dr. Sweda to discuss conducting evaluations at Quantico and the presence of CAPT Moore during the 706 Board	258	45
9-Feb-11	Wed	Media inquiry response	258	45
9-Feb-11	Wed	Phone call with 2/10 MTN	258	45
9-Feb-11	Wed	Phone call with CCIU	258	45
9-Feb-11	Wed	Phone call with OSJA	258	45
9-Feb-11	Wed	RCM 706 board coordination	258	45
9-Feb-11	Wed	Reviewed draft Secretary of the Army AR 15-6	258	45
9-Feb-11	Wed	Reviewed list of approved cables provided by Department of State	258	45
9-Feb-11	Wed	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	258	45
9-Feb-11	Wed	Worked on additional charges and specifications	258	45
10-Feb-11	Thu	Email conducted research into dismissal of charges and prefferal of additional charges	259	45
10-Feb-11	Thu	Media inquiry response	259	45
10-Feb-11	Thu	Meeting-with DOJ	259	45
10-Feb-11	Thu	Phone call with 2/10 MTN	259	45
10-Feb-11	Thu	Phone call with OGA1	259	45
10-Feb-11	Thu	Phone call with OSJA	259	45
10-Feb-11	Thu	RCM 706 board coordination	259	45

APPELLATE EXHIBIT \_\_\_\_\_

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Date	Week Day	EVENT	Total Time	RCM 707 Clock
10-Feb-11	Thu	Reviewed issues with confinement facility documents and POI recommendations	259	45
10-Feb-11	Thu	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	259	45
11-Feb-11	Fri	Media inquiry response	260	45
11-Feb-11	Fri	Meeting with JIEDDO	260	45
11-Feb-11	Fri	Phone call with 2/10 MTN	260	45
11-Feb-11	Fri	RCM 706 board coordination	260	45
11-Feb-11	Fri	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	260	45
13-Feb-11	Sun	Emailed CCIU in reference to witness interview	262	45
13-Feb-11	Sun	Emailed OGA1	262	45
13-Feb-11	Sun	Emailed TCAP about Article 104	262	45
14-Feb-11	Mon	SECRETARY OF THE ARMY AR 15-6 INVESTIGATION COMPLETED	263	45
14-Feb-11	Mon	Draft SPMCA accounting of excludable delay memorandum	263	45
14-Feb-11	Mon	Email from Dr. Sweda informing prosecution the board will start conducting unclassified portions of 706 Board at the Brig on 16 February	263	45
14-Feb-11	Mon	Email with DA-discussed 706 issue	263	45
14-Feb-11	Mon	Media inquiry response	263	45
14-Feb-11	Mon	Notified of protest at Quantico	263	45
14-Feb-11	Mon	Phone call with JIEDDO	263	45
14-Feb-11	Mon	RCM 706 board coordination	263	45
14-Feb-11	Mon	Researched Article 104 charge	263	45
14-Feb-11	Mon	Responded to defense's MRE 505(h)(1) request	263	45
14-Feb-11	Mon	Witness interview	263	45
14-Feb-11	Mon	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	263	45
14-Feb-11	Mon	Worked on getting a courier card for classified information	263	45
14-Feb-11	Mon	Worked on getting a digital copy of defense-requested video showing accused's collapse in confinement	263	45
14-Feb-11	Mon	Worked on response to defense's MRE 505(h)(1) request	263	45
15-Feb-11	Tue	Defense replied to prosecution's MRE 505 response	264	45
15-Feb-11	Tue	Email contacted USMC regarding accused confinement status	264	45
15-Feb-11	Tue	Media inquiry response	264	45
15-Feb-11	Tue	Meeting with SPMCA to discuss accounting of excludable delay memorandum	264	45
15-Feb-11	Tue	Meeting with CCIU focused on examining unallocated space on accused's media	264	45
15-Feb-11	Tue	Phone call with CCIU	264	45
15-Feb-11	Tue	Phone call with GAD	264	45
15-Feb-11	Tue	Phone call with TCAP	264	45
15-Feb-11	Tue	RCM 706 board coordination	264	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
15-Feb-11	Tue	RCM 706 board notified CAPT Moore that the board will convene tomorrow	264	45
15-Feb-11	Tue	SPCMCA Accounting of Excludable Delay Memorandum	264	45
15-Feb-11	Tue	Updated IO on Article 32 status	264	45
15-Feb-11	Tue	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	264	45
16-Feb-11	Wed	Defense submitted discovery request	265	45
16-Feb-11	Wed	Media inquiry response	265	45
16-Feb-11	Wed	Phone call with DIA	265	45
16-Feb-11	Wed	RCM 706 board convened	265	45
16-Feb-11	Wed	RCM 706 board coordination	265	45
16-Feb-11	Wed	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	265	45
16-Feb-11	Wed	Worked on charges and specifications	265	45
17-Feb-11	Thu	Defense requested IO to compel discovery	266	45
17-Feb-11	Thu	Defense submitted motion to compel discovery	266	45
17-Feb-11	Thu	Email from OGA1 with concurred with charging document	266	45
17-Feb-11	Thu	Email with FBI-conducted file review	266	45
17-Feb-11	Thu	Email with HQDA-prosecution sent informal request to use a charged document	266	45
17-Feb-11	Thu	Email with INSCOM-requested authorization to use document in charging decision	266	45
17-Feb-11	Thu	Media inquiry response	266	45
17-Feb-11	Thu	Phone call with INSCOM DSJA focused on classified portion of RCM 706 board	266	45
17-Feb-11	Thu	Phone call with OSJA	266	45
17-Feb-11	Thu	RCM 706 board coordination	266	45
17-Feb-11	Thu	Researched discovery issues relating to attorney work-product	266	45
17-Feb-11	Thu	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	266	45
18 Feb 11	Fri	DEFENSE REQUESTS FOR APPOINTMENT OF NEUROPSYCHOLOGIST TO DEFENSE TEAM	267	45
18-Feb-11	Fri	Communication with defense-defense requested assistance with the visit by the accused's family to the brig	267	45
18-Feb-11	Fri	Defense requested expert for neuropsychology	267	45
18-Feb-11	Fri	Media inquiry response	267	45
18-Feb-11	Fri	Phone call with CCIU	267	45
18-Feb-11	Fri	Phone call with J6, MDW	267	45
18-Feb-11	Fri	Phone call with NCIX to request assistance	267	45
18-Feb-11	Fri	Phone call with OSJA	267	45
18-Feb-11	Fri	RCM 706 board coordination	267	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
18-Feb-11	Fri	Requested assistance of ONCIX to obtain individual damage assessments from which ONCIX requested input	267	45
18-Feb-11	Fri	Training Holiday - President's Day Holiday	267	45
18-Feb-11	Fri	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	267	45
18-Feb-11	Fri	Worked to resolve issue with accused's mother visiting the brig	267	45
20-Feb-11	Sun	Phone call with OSJA	269	45
20-Feb-11	Sun	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	269	45
21-Feb-11	Mon	Communication with defense-defense requested that the prosecution arrange for a SCIF to be available for the defense to meet with the accused	270	45
21-Feb-11	Mon	Communication with defense-to discuss defense MRE 505 proposal, scheduling recon of SCIF at INSCOM facility and defense schedule in order to arrange a client visit	270	45
21-Feb-11	Mon	Media inquiry response	270	45
21-Feb-11	Mon	Phone call with OSJA	270	45
21-Feb-11	Mon	President's Day Holiday	270	45
21-Feb-11	Mon	RCM 706 board coordination	270	45
21-Feb-11	Mon	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	270	45
22-Feb-11	Tue	CENTCOM completed classification review of two powerpoint presentations	271	45
22-Feb-11	Tue	Email with DA-discussed request for OCA disclosure	271	45
22-Feb-11	Tue	Gathered all documents supporting preferral for review by accuser	271	45
22-Feb-11	Tue	Media inquiry response	271	45
22-Feb-11	Tue	Meeting-MAJ Fein attends Division Chief's Meeting	271	45
22-Feb-11	Tue	Organized internal database	271	45
22-Feb-11	Tue	Phone call with OSJA	271	45
22-Feb-11	Tue	RCM 706 board coordination	271	45
22-Feb-11	Tue	Received BRIG SOP from Quantico	271	45
22-Feb-11	Tue	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	271	45
23-Feb-11	Wed	Email with DA-discussed OCA request	272	45
23-Feb-11	Wed	Media inquiry response	272	45
23-Feb-11	Wed	Motion to Compel items given to defense	272	45
23-Feb-11	Wed	Phone call with Company Commander	272	45
23-Feb-11	Wed	Phone call with OSJA	272	45
23-Feb-11	Wed	Phone call with OTJAG in reference to handling, use, or discovery of classified information	272	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
23-Feb-11	Wed	RCM 706 board coordination	272	45
23-Feb-11	Wed	Researched UMC, multiplicity	272	45
23-Feb-11	Wed	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	272	45
24-Feb-11	Thu	Media inquiry response	273	45
24-Feb-11	Thu	Meeting-TDY to interview witnesses in Charlottesville, VA (all day)	273	45
24-Feb-11	Thu	Notified that JTF-GTMO and CENTCOM would be sending affidavits directly to the prosecution team	273	45
24-Feb-11	Thu	Phone call with CCIU	273	45
24-Feb-11	Thu	Phone call with DIA	273	45
24-Feb-11	Thu	Phone call with OGA1	273	45
24-Feb-11	Thu	Phone call with OSJA	273	45
24-Feb-11	Thu	RCM 706 board coordination	273	45
24-Feb-11	Thu	Received accused's counseling documents and ensured there were no other missed counselings for accused	273	45
24-Feb-11	Thu	Received courier card	273	45
24-Feb-11	Thu	Reviewed release of Fort Huachuca documents under FOIA	273	45
24-Feb-11	Thu	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	273	45
25-Feb-11	Fri	Communication-from Mr. Coombs to the Article 32 IO justifying its discovery request along with a discussion of MRE 505 and scheduling use of the INSCOM SCIF	274	45
25-Feb-11	Fri	Discussed MRE 505 (h)(1) issues, Motion to Compel response, scheduling recon of SCIF at INSCOM facility and defense's schedule in order to arrange a client visit	274	45
25-Feb-11	Fri	Discussed requirements of RCM 706 board with INSCOM SCIF NCOIC	274	45
25-Feb-11	Fri	Gathered documents, briefed accuser on facts and evidence for review	274	45
25-Feb-11	Fri	Media inquiry response	274	45
25-Feb-11	Fri	Phone call with company commander	274	45
25-Feb-11	Fri	Phone call with FBI	274	45
25-Feb-11	Fri	Phone call with OGA1	274	45
25-Feb-11	Fri	Phone call with SCMCA	274	45
25-Feb-11	Fri	Phone call with SPCMCA	274	45
25-Feb-11	Fri	Preliminary classification review of accused's chat logs with Lamo and Assange completed	274	45
25-Feb-11	Fri	RCM 706 board coordination	274	45
25-Feb-11	Fri	Submitted response to Motion to Compel Discovery to IO	274	45
25-Feb-11	Fri	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	274	45



Date	Week Day	EVENT	Total Time	RCM 707 Clock
25-Feb-11	Fri	Worked on the uniform issue when accused is moving to appointments	274	45
26-Feb-11	Sat	Meeting-with TCAP and GAD	275	45
26-Feb-11	Sat	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	275	45
27-Feb-11	Sun	Phone call with U5N Code 30	276	45
27-Feb-11	Sun	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	276	45
28-Feb-11	Mon	COL Malone is out of the office	277	45
28-Feb-11	Mon	Communication with defense-to discuss a set date to meet with accused and other admin issues	277	45
28-Feb-11	Mon	Email from Department of State granting authority to use select classified information in trial so long as it remains classified	277	45
28-Feb-11	Mon	Email with company commander regarding the soldiers assigned to 52 with accused	277	45
28-Feb-11	Mon	Email with DA-discussed OCA disclosure request and request for approval	277	45
28-Feb-11	Mon	Email with DOS to received authority to use classified information in trial so long as it remains classified	277	45
28-Feb-11	Mon	Email with DOS-discussion of disclosure approval	277	45
28-Feb-11	Mon	Email with ODNI-discussed declaration	277	45
28-Feb-11	Mon	IO notified the defense that the defense must wait until the IO receives evidence beyond accused's charge sheet and ERB to request the production of additional documents	277	45
28-Feb-11	Mon	Media inquiry response	277	45
28-Feb-11	Mon	Meeting-with civilian criminal law expert in reference to Charging Article 104, UCMJ	277	45
28-Feb-11	Mon	Meeting-with OSJA	277	45
28-Feb-11	Mon	Phone call with CCIU	277	45
28-Feb-11	Mon	Phone call with DOJ, CES - discussed prudential search request	277	45
28-Feb-11	Mon	Phone call with OGA1	277	45
28-Feb-11	Mon	Phone call with 5CMCA to review evidence for preferral	277	45
28-Feb-11	Mon	RCM 706 board coordination	277	45
28-Feb-11	Mon	Received the point of contact information for the INSCOM SCIF	277	45
28-Feb-11	Mon	Researched asserting the MRE 505 privilege	277	45
28-Feb-11	Mon	Worked generally to develop evidence and witnesses, identify potentially discoverable material and associated equity holders, and draft additional charges and specifications	277	45
28-Feb-11	Mon	Worked on getting the documents from accused's PTC packet for discovery	277	45
28-Feb-11	Mon	Worked on getting the original protective orders from defense security experts	277	45



Date	Week Day	EVENT	Total Time	RCM 707 Clock
1-Mar-11	Tue	SCMCA PREFERS ADDITIONAL CHARGES	278	45
1-Mar-11	Tue	COL Malone is out of the office	278	45
1-Mar-11	Tue	Communication with defense-to provide notice of additional charges prior to service of charges	278	45
1-Mar-11	Tue	Coordinated RCM 706 board	278	45
1-Mar-11	Tue	Email with DA-discussed OCA request	278	45
1-Mar-11	Tue	Email with Quantico Brig to provide warning of additional charges	278	45
1-Mar-11	Tue	Finalized charges and specifications	278	45
1-Mar-11	Tue	Media inquiry response	278	45
1-Mar-11	Tue	Meeting-with NCIX for update	278	45
1-Mar-11	Tue	Meeting-with ODN	278	45
1-Mar-11	Tue	Phone call with SCMCA to review evidence for preferral	278	45
1-Mar-11	Tue	Received discovery documents from BOLT	278	45
1-Mar-11	Tue	Received info regarding accused's Article 138 complaint	278	45
1-Mar-11	Tue	Scheduled a tour of the INSCOM SCIF for the 706 board	278	45
1-Mar-11	Tue	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	278	45
1-Mar-11	Tue	Worked on getting EO complaint filed by accused	278	45
1-Mar-11	Tue	Worked with administrative law section on FOIA request	278	45
2-Mar-11	Wed	Article 138 Response given to accused and the defense team	279	45
2-Mar-11	Wed	COL Malone is out of the office	279	45
2-Mar-11	Wed	Communication with defense	279	45
2-Mar-11	Wed	Coordinated RCM 706 board	279	45
2-Mar-11	Wed	Email with HQDA-prosecution sent excerpts of chat logs to DA	279	45
2-Mar-11	Wed	Email with Quantico Brig to discuss additional charges	279	45
2-Mar-11	Wed	Media inquiry response	279	45
2-Mar-11	Wed	Phone call with CCIU	279	45
2-Mar-11	Wed	Phone call with DOJ to discuss additional charges	279	45
2-Mar-11	Wed	Phone call with HHC, USAG, Company Commander, CPT Casamatta	279	45
2-Mar-11	Wed	Phone call with OSIA	279	45
2-Mar-11	Wed	Phone call with SPCMCA for receipt of charges	279	45
2-Mar-11	Wed	Phone call with TCAP	279	45
2-Mar-11	Wed	Received information regarding accused's Article 138 complaint	279	45
2-Mar-11	Wed	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	279	45
2-Mar-11	Wed	Worked on RCM 305(g) memorandum; classification reviews; OCA consent to disclose	279	45
3-Mar-11	Thu	COL Malone is out of the office	280	45
3-Mar-11	Thu	Coordinated RCM 706 board	280	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
3-Mar-11	Thu	Defense IA expert signed acknowledgement of protective order	280	45
3-Mar-11	Thu	Email coordinated with Quantico Brig in reference to elevated conditions	280	45
3-Mar-11	Thu	Email with INSCOM facilities manager requesting the use of the third floor conference room for accused's meetings with medical personnel and the defense counsel	280	45
3-Mar-11	Thu	Media inquiry response	280	45
3-Mar-11	Thu	Meeting with DOS focusing on possible discovery and completion of formal classification reviews	280	45
3-Mar-11	Thu	Meeting with INSCOM facilities manager to tour SCIF for RCM 706 board, including how to provide accused the most privacy in the building	280	45
3-Mar-11	Thu	Phone call with CCIU	280	45
3-Mar-11	Thu	Phone call with DIA	280	45
3-Mar-11	Thu	Phone call with OSJA	280	45
3-Mar-11	Thu	Received an email from the CENTCOM OSJA stating that the AR 15-6 approval memo is in the process of being declassified	280	45
3-Mar-11	Thu	Sent the Article 138 response to the defense and accused	280	45
3-Mar-11	Thu	Team analysis and work product	280	45
3-Mar-11	Thu	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	280	45
4-Mar-11	Fri	CAPT Moore signed acknowledgement of protective order	281	45
4-Mar-11	Fri	COL Malone is out of the office	281	45
4-Mar-11	Fri	Coordinated RCM 706 board	281	45
4-Mar-11	Fri	Drafted memoranda requesting classification reviews and OCA consent to disclose	281	45
4-Mar-11	Fri	Media inquiry response	281	45
4-Mar-11	Fri	Meeting with DOJ to discuss Article 104 and federal law	281	45
4-Mar-11	Fri	Meeting with SPCMCA	281	45
4-Mar-11	Fri	Phone call with OSJA	281	45
4-Mar-11	Fri	Researched 18 USC 641 offenses	281	45
4-Mar-11	Fri	Team analysis and work product	281	45
4-Mar-11	Fri	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	281	45
4-Mar-11	Fri	Worked on discovery responses	281	45
5-Mar-11	Sat	COL Malone is out of the office	282	45
5-Mar-11	Sat	Communication with defense-defense requested coordination to meet with the accused on 11-12 Mar 11	282	45
5-Mar-11	Sat	Communication with defense with defense explaining a SCIF is available any Saturday after today for the defense to meet with the accused before the RCM 706	282	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
5-Mar-11	Sat	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	282	45
6-Mar-11	Sun	COL Malone is out of the office	283	45
6-Mar-11	Sun	Phone call with OSJA	283	45
6-Mar-11	Sun	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	283	45
7-Mar-11	Mon	COL Malone is out of the office	284	45
7-Mar-11	Mon	Communication with defense-defense requested to meet with the accused before the RCM 706 board interviews the accused and for that meeting to take place on 25-26 Mar 11; defense cited the increase in cost of transportation	284	45
7-Mar-11	Mon	Communication with defense-with defense where he requested the date move to the right to 25 or 26 March 2011 to allow him more time to purchase tickets, which effects the beginning o the RCM 706 board	284	45
7-Mar-11	Mon	Coordinated RCM 706 board	284	45
7-Mar-11	Mon	Email with CCIU 2	284	45
7-Mar-11	Mon	Email with CCIU in reference to accused's IA training	284	45
7-Mar-11	Mon	Email with FBI-coordinate for a phone meeting	284	45
7-Mar-11	Mon	Media inquiry response	284	45
7-Mar-11	Mon	Notified of clothing removal of accused	284	45
7-Mar-11	Mon	Phone call with CCIU 1	284	45
7-Mar-11	Mon	Phone call with FBI	284	45
7-Mar-11	Mon	RCM 706 board member signed acknowledgement of protective order	284	45
7-Mar-11	Mon	Received documents mailed by 2/10 MTN	284	45
7-Mar-11	Mon	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	284	45
7-Mar-11	Mon	Worked on obtaining a defense neuropsychologist	284	45
8-Mar-11	Tue	DEFENSE REQUESTS FOR APPOINTMENT OF MITIGATION EXPERT TO DEFENSE TEAM	285	45
8-Mar-11	Tue	Additional charges transmitted	285	45
8-Mar-11	Tue	Coordinated RCM 706 board	285	45
8-Mar-11	Tue	Delivered discovery to MAJ Kemkes	285	45
8-Mar-11	Tue	Discovery production: Bates # 00001052 - 00011448 (10397 pages), including 35F TRN POI and Quantico Art 138 Response [Unclassified]	285	45
8-Mar-11	Tue	Email with HQDA-prosecution asked for update on request to use a charged document and asked how to route request to disclose MI investigations	285	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
8-Mar-11	Tue	Media inquiry response	285	45
8-Mar-11	Tue	Meeting-with OGC, ODNI to discuss discovery and classification review of intelink logs	285	45
8-Mar-11	Tue	Phone call with OSJA	285	45
8-Mar-11	Tue	Phone call with OTJAG in reference to handling, use, or discovery of classified information	285	45
8-Mar-11	Tue	Pickup records of trial for research	285	45
8-Mar-11	Tue	RCM 706 board requested to conduct interview of the accused on 26 Mar 11	285	45
8-Mar-11	Tue	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	285	45
9-Mar-11	Wed	Coordinated RCM 706 board	286	45
9-Mar-11	Wed	Created access roster for internal reference	286	45
9-Mar-11	Wed	Drafted request for agencies to search, preserve, and disclose any material relating to the case	286	45
9-Mar-11	Wed	Email to INSCOM facilities manager to notify that the first day the SCIF would be used is on 26 March	286	45
9-Mar-11	Wed	Email with CENTCOM-discussed classification review	286	45
9-Mar-11	Wed	Email with DA-requested update regarding classified evidence	286	45
9-Mar-11	Wed	Email with INSCOM-prosecution was notified that request to use one charged document had been routed to another organization	286	45
9-Mar-11	Wed	Email with MDW security for DSJA security clearance	286	45
9-Mar-11	Wed	Media inquiry response	286	45
9-Mar-11	Wed	Phone call with CCIU	286	45
9-Mar-11	Wed	Phone call with OSJA	286	45
9-Mar-11	Wed	Received signed protection order from CAPT Moore	286	45
9-Mar-11	Wed	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	286	45
9-Mar-11	Wed	Worked on memorandua requesting classification reviews and OCA consent to disclose	286	45
10-Mar-11	Thu	Coordinated RCM 706 board	287	45
10-Mar-11	Thu	Coordinated with various security managers to finalize access roster	287	45
10-Mar-11	Thu	Defense submitted rebuttal for Article 138 complaint	287	45
10-Mar-11	Thu	Email with DA-received update regarding classified evidence	287	45
10-Mar-11	Thu	Media inquiry response	287	45
10-Mar-11	Thu	Phone call with OGA1	287	45
10-Mar-11	Thu	Phone call with OSJA	287	45
10-Mar-11	Thu	Provided timeline of the day that Article 138 matters and the charge sheet were served on accused	287	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
10-Mar-11	Thu	Received certification letter from CID regarding accused's IA training	287	45
10-Mar-11	Thu	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	287	45
10-Mar-11	Thu	Worked on expediting clearance packets	287	45
10-Mar-11	Thu	Worked on forensic notes, reviewing statements	287	45
11-Mar-11	Fri	Communication-defense counsel meet with accused	288	45
11-Mar-11	Fri	Coordinated RCM 706 board	288	45
11-Mar-11	Fri	Media inquiry response	288	45
11-Mar-11	Fri	Meeting-with OGA2 to discuss discovery and classification reviews	288	45
11-Mar-11	Fri	Phone call with FBI	288	45
11-Mar-11	Fri	Phone call with OSJA	288	45
11-Mar-11	Fri	RCM 706 board rescheduled to begin on 27 March, instead of 26 March	288	45
11-Mar-11	Fri	Team analysis and work product	288	45
11-Mar-11	Fri	Trial EXORD for ISO Task Force Support published	288	45
11-Mar-11	Fri	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	288	45
12-Mar-11	Sat	Communication-defense counsel meet with accused	289	45
12-Mar-11	Sat	Email with CCIU to request CCIU to review all classified information in the case file to determine which OCAs are in the file	289	45
12-Mar-11	Sat	Phone call with CCIU	289	45
12-Mar-11	Sat	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	289	45
13-Mar-11	Sun	Phone call with CCIU	290	45
13-Mar-11	Sun	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	290	45
14-Mar-11	Mon	PROSECUTION MEMORIALIZES ITS REQUESTS FOR APPROVAL TO DISCLOSE CLASSIFIED INFORMATION TO THE DEFENSE	291	45
14-Mar-11	Mon	Coordinated RCM 706 board	291	45
14-Mar-11	Mon	Discussed scheduling of RCM 706 board and Article 32 with IO	291	45
14-Mar-11	Mon	Email with DOS-disclosure request	291	45
14-Mar-11	Mon	Email with DOS-OCA disclosure request	291	45
14-Mar-11	Mon	Email with HQDA-prosecution sent OCA disclosure request to DA G2	291	45
14-Mar-11	Mon	Email with ODNI-submitted disclosure request	291	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
14-Mar-11	Mon	Email with OGA2-sent request for approval of discovery disclosure	291	45
14-Mar-11	Mon	Finalized memoranda requesting OCA consent to disclose	291	45
14-Mar-11	Mon	MDW SJA nominates members of prosecution as transfer agents	291	45
14-Mar-11	Mon	Media inquiry response	291	45
14-Mar-11	Mon	Prosecution team member arrived to the team	291	45
14-Mar-11	Mon	RCM 706 board confirmed that 9 April would be preferred over 4 April	291	45
14-Mar-11	Mon	RCM 706 board member agreed to arrange an appointment for brain imaging and neurological examination for accused, and informed the prosecution that a RCM 706 board member will be on leave on 2 April	291	45
14-Mar-11	Mon	RCM 706 board submitted extension request	291	45
14-Mar-11	Mon	Requested approval to disclose classified discovery to the defense (DA, G2)	291	45
14-Mar-11	Mon	Requested approval to disclose classified discovery to the defense (DOS)	291	45
14-Mar-11	Mon	Requested approval to disclose classified discovery to the defense (ODNI)	291	45
14-Mar-11	Mon	Requested approval to disclose classified discovery to the defense (OGA2)	291	45
14-Mar-11	Mon	Requested authority to disclose Intelink logs	291	45
14-Mar-11	Mon	Team analysis and work product	291	45
14-Mar-11	Mon	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	291	45
15-Mar-11	Tue	Case familiarization for new member of prosecution team	292	45
15-Mar-11	Tue	Coordinated RCM 706 board	292	45
15-Mar-11	Tue	Email to OGA1 with request for conto disclose	292	45
15-Mar-11	Tue	Email with DIA-requested approvals and contact information for relevant POC	292	45
15-Mar-11	Tue	Media inquiry response	292	45
15-Mar-11	Tue	Phone call with FBI	292	45
15-Mar-11	Tue	Phone call with TCAP	292	45
15-Mar-11	Tue	Procured defense neuropsychologist	292	45
15-Mar-11	Tue	Scheduled JPAS set up and training	292	45
15-Mar-11	Tue	Submitted MFR for receipt of advanced copy of Secretary of the Army AR 15-6 investigation	292	45
15-Mar-11	Tue	Team analysis and work product	292	45
15-Mar-11	Tue	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	292	45
15-Mar-11	Tue	Worked on discovery responses	292	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
15-Mar-11	Tue	Worked on gathering evidence vouchers	292	45
16-Mar-11	Wed	Case familiarization for new member of prosecution team	293	45
16-Mar-11	Wed	Coordinated RCM 706 board	293	45
16-Mar-11	Wed	Email with CENTCOM-prosecution received unclass class review for Apache video	293	45
16-Mar-11	Wed	Email with FBI-coordinate for a meeting	293	45
16-Mar-11	Wed	Media inquiry response	293	45
16-Mar-11	Wed	Meeting-with CCIU	293	45
16-Mar-11	Wed	Meeting-with EDVA	293	45
16-Mar-11	Wed	Meeting-with FBI	293	45
16-Mar-11	Wed	Phone call with DIA	293	45
16-Mar-11	Wed	Phone call with OGA1 to discuss the discovery production request	293	45
16-Mar-11	Wed	Phone call with OSJA	293	45
16-Mar-11	Wed	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	293	45
17-Mar-11	Thu	Case familiarization for new member of prosecution team	294	45
17-Mar-11	Thu	Coordinated RCM 706 board	294	45
17-Mar-11	Thu	Draft SPCMCA accounting of excludable delay memorandum	294	45
17-Mar-11	Thu	Email coordinated with WRAMC to move accused through the facility with minimal contact and mitigated potential for public notice	294	45
17-Mar-11	Thu	Email with DIA-assisted in determining information ownership	294	45
17-Mar-11	Thu	Email with DIA-completed review of chat logs for possible classified information	294	45
17-Mar-11	Thu	Email with INSCOM-prosecution re-sent several outstanding requests to INSCOM	294	45
17-Mar-11	Thu	Media inquiry response	294	45
17-Mar-11	Thu	Phone call with CCIU	294	45
17-Mar-11	Thu	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	294	45
17-Mar-11	Thu	Worked on requests for agencies to search, preserve, and disclose any material relating to this case	294	45
18-Mar-11	Fri	SPCMCA DISMISSES ORIGINAL CHARGES	295	45
18-Mar-11	Fri	PROSECUTION MEMORIALIZES ITS REQUESTS FOR CLASSIFICATION REVIEWS	295	45
18-Mar-11	Fri	Case familiarization for new member of prosecution team	295	45
18-Mar-11	Fri	Coordinated RCM 706 board	295	45
18-Mar-11	Fri	Email with DA-discussed OCA review	295	45
18-Mar-11	Fri	Email with DISA-request for classification review	295	45



Date	Week Day	EVENT	Total Time	RCM 707 Clock
18-Mar-11	Fri	Email with DOS to discuss implementation of request for consent to disclose classified information	295	45
18-Mar-11	Fri	Email with DOS-request for classification review 1	295	45
18-Mar-11	Fri	Email with DOS-request for classification review 2	295	45
18-Mar-11	Fri	Email with DSS-discussed approvals	295	45
18-Mar-11	Fri	Email with HQDA-prosecution sent OCA classification review requests to DA for all of DOD	295	45
18-Mar-11	Fri	Email with ODNI-submitted request for classification review	295	45
18-Mar-11	Fri	Finalized memoranda requesting classification reviews	295	45
18-Mar-11	Fri	IRTF completed line-by-line review of chat logs to send to appropriate OCAs	295	45
18-Mar-11	Fri	Issue with civilian defense counsel's access to brig because of OCS graduation	295	45
18-Mar-11	Fri	Media inquiry response	295	45
18-Mar-11	Fri	Meeting with SPCMCA to discuss accounting of excludable delay memorandum	295	45
18-Mar-11	Fri	Original charges dismissed	295	45
18-Mar-11	Fri	Phone call with CCIU	295	45
18-Mar-11	Fri	Phone call with DIA	295	45
18-Mar-11	Fri	Requested classification review (CENTCOM)	295	45
18-Mar-11	Fri	Requested classification review (CYBERCOM)	295	45
18-Mar-11	Fri	Requested classification review (INSCOM)	295	45
18-Mar-11	Fri	Requested classification review (OGA1)	295	45
18-Mar-11	Fri	Requested classification review (OGA2)	295	45
18-Mar-11	Fri	Requested classification review (SOUTHCOM)	295	45
18-Mar-11	Fri	Requested OGA2 complete classification review of information that experts identified as potentially classified in CID file	295	45
18-Mar-11	Fri	SPCMCA Accounting of Excludable Delay Memorandum	295	45
18-Mar-11	Fri	SPCMCA approved RCM 706 extension until 16 Apr 11	295	45
18-Mar-11	Fri	SPCMCA conducted RCM 305(g) review	295	45
18-Mar-11	Fri	SPCMCA directed IO to investigate additional charges	295	45
18-Mar-11	Fri	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	295	45
18-Mar-11	Fri	Worked on requests for agencies to search, preserve, and disclose any material relating to this case	295	45
19-Mar-11	Sat	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	296	45
19-Mar-11	Sat	Worked on discovery responses	296	45
20-Mar-11	Sun	Email from OGA1 with request to look at DOS cables	297	45
20-Mar-11	Sun	Email with CCIU to discuss equipment needed to amount and type of classified information	297	45

APPELLATE EXHIBIT \_\_\_\_\_

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Date	Week Day	EVENT	Total Time	RCM 707 Clock
20-Mar-11	Sun	Provided IO with the new instructions from the SPCMCA	297	45
20-Mar-11	Sun	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	297	45
21-Mar-11	Mon	Coordinated RCM 706 board	298	45
21-Mar-11	Mon	Email started coordination to obtain a an unclassified copy of the USF-I AR 15-6 Investigation to the SJA	298	45
21-Mar-11	Mon	Email to OGA1 with list of DOS cables	298	45
21-Mar-11	Mon	Email to OGA1 with request for classification review	298	45
21-Mar-11	Mon	Email with DIA-sent request for disclosure of discovery	298	45
21-Mar-11	Mon	Email with DISA-sent request to release discovery	298	45
21-Mar-11	Mon	Email with OGA2-requested additional review of IRTF damage assessment information	298	45
21-Mar-11	Mon	IO inquired about the delay and is notified of the new RCM 706 suspension	298	45
21-Mar-11	Mon	Media inquiry response	298	45
21-Mar-11	Mon	Notified IO of new RCM 706 suspension	298	45
21-Mar-11	Mon	Protest at Quantico resulting in 30 arrests	298	45
21-Mar-11	Mon	Received confirmation from the RCM 706 board that the board will convene on 9 April and asks for address to INSCOM SCIF	298	45
21-Mar-11	Mon	Requested approval of discovery disclosure (DIA)	298	45
21-Mar-11	Mon	Requested approval of discovery disclosure (DISA)	298	45
21-Mar-11	Mon	Reviewed forensic notes and witness notes	298	45
21-Mar-11	Mon	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	298	45
21-Mar-11	Mon	Worked on neuropsychologist request with WRAMC	298	45
22-Mar-11	Tue	Arranged meeting with CID	299	45
22-Mar-11	Tue	Communication with defense-to discuss accused signed the protective order	299	45
22-Mar-11	Tue	Contacted Kuwait RCF regarding discovery items requested by defense	299	45
22-Mar-11	Tue	Coordinated RCM 706 board	299	45
22-Mar-11	Tue	Email with DISA-resent request to release discovery	299	45
22-Mar-11	Tue	Email with DOS-received notification of processing disclosure request and request for classification review	299	45
22-Mar-11	Tue	Media inquiry response	299	45
22-Mar-11	Tue	Reviewed forensic notes and witness notes	299	45
22-Mar-11	Tue	Sent acknowledgement of COMSEC training for team	299	45
22-Mar-11	Tue	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	299	45
23-Mar-11	Wed	Accused had MRI and was seen by neurologist	300	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
23-Mar-11	Wed	Accused taken to Walter Reed for testing portion of RCM 706 board	300	45
23-Mar-11	Wed	Coordinated RCM 706 board	300	45
23-Mar-11	Wed	Email from COL Malone stating that the Brig request for mental health provider augmentees is unrelated to his treatment plan for accused	300	45
23-Mar-11	Wed	Email to discuss high visibility military justice case budgets	300	45
23-Mar-11	Wed	Media inquiry response	300	45
23-Mar-11	Wed	Phone call with DOJ	300	45
23-Mar-11	Wed	Phone call with TCAP and GAD	300	45
23-Mar-11	Wed	Received Secretary of the Army AR 15-6 investigation	300	45
23-Mar-11	Wed	Received Sworn Statement from Kuwait RCF	300	45
23-Mar-11	Wed	Reviewed forensic notes and witness notes	300	45
23-Mar-11	Wed	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	300	45
24-Mar-11	Thu	Continued planning for prosecution budget for SJA's approval	301	45
24-Mar-11	Thu	Coordinated RCM 706 board	301	45
24-Mar-11	Thu	Email from OGA1 with concurred with request for defense access to charging documents	301	45
24-Mar-11	Thu	Email with DISA-received approval to disclose discovery	301	45
24-Mar-11	Thu	Logistics demonstration	301	45
24-Mar-11	Thu	Media inquiry response	301	45
24-Mar-11	Thu	OGA1 authorized disclosure of charged documents	301	45
24-Mar-11	Thu	Phone call with CCIU to discuss witness availability	301	45
24-Mar-11	Thu	Phone call with Fort Meade OSJA	301	45
24-Mar-11	Thu	Phone call with OGA2	301	45
24-Mar-11	Thu	Phone call with OSJA	301	45
24-Mar-11	Thu	Phone call with SPCMCA	301	45
24-Mar-11	Thu	Reviewed forensic notes and witness notes	301	45
24-Mar-11	Thu	Team analysis and work product	301	45
24-Mar-11	Thu	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	301	45
24-Mar-11	Thu	Worked on defense's neuropsychologist request	301	45
25-Mar-11	Fri	Communication-accused meets with defense Counsel at Fort Myer	302	45
25-Mar-11	Fri	Coordinated RCM 706 board meeting	302	45
25-Mar-11	Fri	Delivered copy of Secretary of the Army AR 15-6 to CID	302	45
25-Mar-11	Fri	Email from COL Malone suggesting that the mental health provider for accused change due to his relocation	302	45
25-Mar-11	Fri	Email to discuss specialized discovery software for high visibility case	302	45
25-Mar-11	Fri	Email with OGA2 -sent request for OCA Classification Review	302	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
25-Mar-11	Fri	Media inquiry response	302	45
25-Mar-11	Fri	Meeting-Team analysis and work product	302	45
25-Mar-11	Fri	Phone call with OSJA	302	45
25-Mar-11	Fri	Received Protection Order signed by accused	302	45
25-Mar-11	Fri	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	302	45
26-Mar-11	Sat	Communication-accused meets with defense counsel at INSCOM SCIF for pre-RCM 706 interview meeting, based on defense request	303	45
26-Mar-11	Sat	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	303	45
27-Mar-11	Sun	Completed good time compensation memorandum	304	45
27-Mar-11	Sun	Completed memorandum outlining history of Article 104 UCMJ	304	45
27-Mar-11	Sun	Email to 2/10 MTN coordinating evidence	304	45
27-Mar-11	Sun	Phone call with OTJAG in reference to handling, use, or discovery of classified information	304	45
27-Mar-11	Sun	Researched 18 USC 641	304	45
27-Mar-11	Sun	Researched Article 121	304	45
27-Mar-11	Sun	Researched espionage caselaw	304	45
27-Mar-11	Sun	Reviewed forensic notes and witness notes	304	45
27-Mar-11	Sun	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	304	45
28-Mar-11	Mon	CCIU inoperable due to office relocation	305	45
28-Mar-11	Mon	Coordinated RCM 706 board	305	45
28-Mar-11	Mon	Email with Hasan prosecution to discuss specialized discovery software for high visibility case	305	45
28-Mar-11	Mon	Media inquiry response	305	45
28-Mar-11	Mon	Phone call with CCIU	305	45
28-Mar-11	Mon	Phone call with OTJAG in reference to handling, use, or discovery of classified information	305	45
28-Mar-11	Mon	Walter-Reed psychology department reached out to the Psychology Consultant to the Surgeon General to find a neuropsychologist for the defense team	305	45
28-Mar-11	Mon	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	305	45
29-Mar-11	Tue	CCIU inoperable due to office relocation	306	45
29-Mar-11	Tue	Coordinated RCM 706 board	306	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
29-Mar-11	Tue	Department of State authorized disclosure of discovery	306	45
29-Mar-11	Tue	Email with DOS-DOS approval of disclosure request	306	45
29-Mar-11	Tue	Email with HQDA-prosecution re-sent OCA classification review requests to DA for all of DOD	306	45
29-Mar-11	Tue	Email with JAVs technician about audio/visual support in courtroom	306	45
29-Mar-11	Tue	Media inquiry response	306	45
29-Mar-11	Tue	Phone call with CAPT Ralph about being a neuropsychologist for 706 Board	306	45
29-Mar-11	Tue	Phone call with CCIU	306	45
29-Mar-11	Tue	Phone call with Fort Huachuca, AZ OSIA	306	45
29-Mar-11	Tue	Potential neuropsychologist for RCM 706 board identified, but would not be available until 11 April	306	45
29-Mar-11	Tue	Processed International Amnesty Letters	306	45
29-Mar-11	Tue	Reviewed forensic notes and witness notes	306	45
29-Mar-11	Tue	Scheduled witness interview	306	45
29-Mar-11	Tue	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	306	45
29-Mar-11	Tue	Worked on getting copies of accused's LES since confinement	306	45
30-Mar-11	Wed	CCIU inoperable due to office relocation	307	45
30-Mar-11	Wed	Coordinated RCM 706 board	307	45
30-Mar-11	Wed	Email with CCIU about location of Quantico recordings	307	45
30-Mar-11	Wed	Email with DA-received disclosure of discovery authority	307	45
30-Mar-11	Wed	Media inquiry response	307	45
30-Mar-11	Wed	Meeting-with MDW security	307	45
30-Mar-11	Wed	Phone call with CCIU	307	45
30-Mar-11	Wed	Phone call with DOJ	307	45
30-Mar-11	Wed	Phone call with OSIA	307	45
30-Mar-11	Wed	Phone call with TCAP	307	45
30-Mar-11	Wed	Provided facility information to all parties for RCM 706 board	307	45
30-Mar-11	Wed	Received LES spreadsheets for accused	307	45
30-Mar-11	Wed	Reviewed forensic notes and witness notes	307	45
30-Mar-11	Wed	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	307	45
31-Mar-11	Thu	Analyzed brig rules	308	45
31-Mar-11	Thu	CCIU inoperable due to office relocation	308	45
31-Mar-11	Thu	Communication with defense-defense requested that the unit obtain a new ACU uniform for the accused	308	45
31-Mar-11	Thu	Coordinated RCM 706 board	308	45
31-Mar-11	Thu	Email coordinated with DES and PMO for accused's movement	308	45
31-Mar-11	Thu	Email receipt of Article 138 complaint documents	308	45
31-Mar-11	Thu	Media inquiry response	308	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
31-Mar-11	Thu	Meeting-walkthrough of Fort Meade courtroom	308	45
31-Mar-11	Thu	Phone call with EDVA	308	45
31-Mar-11	Thu	Phone call with USN Code 30	308	45
31-Mar-11	Thu	Reviewed forensic notes and witness notes	308	45
31-Mar-11	Thu	Sent list of documents released to defense to CID	308	45
31-Mar-11	Thu	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	308	45
1-Apr-11	Fri	CCIU inoperable due to office relocation	309	45
1-Apr-11	Fri	Coordinated RCM 706 board	309	45
1-Apr-11	Fri	Email with OTJAG to discuss request for consent to disclose and classification reviews	309	45
1-Apr-11	Fri	Media inquiry response	309	45
1-Apr-11	Fri	Phone call with OSJA	309	45
1-Apr-11	Fri	Received Brig Visitation list for accused	309	45
1-Apr-11	Fri	Reviewed FBI forensic files	309	45
1-Apr-11	Fri	Reviewed forensic notes and witness notes	309	45
1-Apr-11	Fri	Scheduled logistics demonstration	309	45
1-Apr-11	Fri	Sent documents for discovery to CID	309	45
1-Apr-11	Fri	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	309	45
2-Apr-11	Sat	Phone call with OSJA	310	45
2-Apr-11	Sat	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	310	45
4-Apr-11	Mon	CCIU inoperable due to office relocation	312	45
4-Apr-11	Mon	Coordinated RCM 706 board	312	45
4-Apr-11	Mon	Email with CCIU to receive additional contact information for witness	312	45
4-Apr-11	Mon	Email with finance to request clarification for entries on accused's LESs	312	45
4-Apr-11	Mon	Media inquiry response	312	45
4-Apr-11	Mon	Meeting-with DOJ	312	45
4-Apr-11	Mon	Phone call with CCIU	312	45
4-Apr-11	Mon	Received authority to transport an unclassified portable computing device in computer clearance	312	45
4-Apr-11	Mon	Reviewed forensic notes and witness notes	312	45
4-Apr-11	Mon	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	312	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
5-Apr-11	Tue	SPCMCA APPOINTS NEUROPSYCHOLOGIST TO DEFENSE TEAM (DEFENSE REQUEST, 18 FEB 11)	313	45
5-Apr-11	Tue	SPCMCA DENIES DEFENSE REQUEST FOR APPOINTMENT OF MILITATION EXPERT (DEFENSE REQUEST, 5 MAR 11)	313	45
5-Apr-11	Tue	CCIU inoperable due to office relocation	313	45
5-Apr-11	Tue	CID review of documents	313	45
5-Apr-11	Tue	Coordinated RCM 706 board	313	45
5-Apr-11	Tue	Email coordinated with Brig and defense regarding CAPT Hootor	313	45
5-Apr-11	Tue	Email with DOS to discuss request for consent to disclose classified information and server and firewall logs	313	45
5-Apr-11	Tue	Email with witness to obtain self authenticating certificate	313	45
5-Apr-11	Tue	Media inquiry response	313	45
5-Apr-11	Tue	Meeting-review CCIU case file at CCIU	313	45
5-Apr-11	Tue	Meeting-with J6, MDW to discuss computer systems for discovery	313	45
5-Apr-11	Tue	Meeting-with ODN1, OGA1, OGA2, DOD, and OTJAG to discuss sensitive subject	313	45
5-Apr-11	Tue	Meeting-with SPCMCA	313	45
5-Apr-11	Tue	Phone call with OSJA	313	45
5-Apr-11	Tue	Received additional documents regarding accused's IA training	313	45
5-Apr-11	Tue	Received Fort Gordon Certification Letter from CID	313	45
5-Apr-11	Tue	Requested supplies for prosecution team	313	45
5-Apr-11	Tue	Reviewed forensic notes and witness notes	313	45
5-Apr-11	Tue	Team analysis and work product	313	45
5-Apr-11	Tue	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	313	45
6-Apr-11	Wed	Asked to contact brig for daily updates	314	45
6-Apr-11	Wed	CCIU inoperable due to office relocation	314	45
6-Apr-11	Wed	Communication with defense-defense requested clarification on the brig's interpretation of its rules relating to visitors	314	45
6-Apr-11	Wed	Coordinated RCM 706 board	314	45
6-Apr-11	Wed	Email with witness to coordinate civilian travel to Washington, DC	314	45
6-Apr-11	Wed	Forwarded defense team memo to brig	314	45
6-Apr-11	Wed	Logistics demonstration	314	45
6-Apr-11	Wed	Media inquiry response	314	45
6-Apr-11	Wed	Meeting-review CCIU case file at CCIU	314	45
6-Apr-11	Wed	Meeting-with CCIU	314	45
6-Apr-11	Wed	Phone call with OSJA	314	45
6-Apr-11	Wed	Received brig monitoring acknowledgments	314	45
6-Apr-11	Wed	Received brig weekly update	314	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
6-Apr-11	Wed	Requested security clearances for counsel and administrative personnel	314	45
6-Apr-11	Wed	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	314	45
7-Apr-11	Thu	CCIU inoperable due to office relocation	315	45
7-Apr-11	Thu	Coordinated RCM 706 board	315	45
7-Apr-11	Thu	DIA authorized disclosure of discovery	315	45
7-Apr-11	Thu	Discovery production: Bates # 00011449 - 00011462 (14 pages), including Art 138 Response [Unclassified]	315	45
7-Apr-11	Thu	Email with CCIU to discuss DISA CD Burning, logs from 902d MI, CD from JIEDDO, scheduling witness interview, another witness interview, forensic review plan, DCGS-A capabilities, interview of another witness, and federal subpoenas	315	45
7-Apr-11	Thu	Email with DA-discussed IA support	315	45
7-Apr-11	Thu	Email with OGA2-requested update on status of discovery disclosure	315	45
7-Apr-11	Thu	MDW SJA forwarded prosecution request for security clearances for counsel and administrative personnel	315	45
7-Apr-11	Thu	Media inquiry response	315	45
7-Apr-11	Thu	Meeting-review CCIU case file at CCIU	315	45
7-Apr-11	Thu	Meeting-with DOS to deliver classified material	315	45
7-Apr-11	Thu	Phone call with Fort Meade OSJA	315	45
7-Apr-11	Thu	Received accused disclosure document from DIA	315	45
7-Apr-11	Thu	Received and reviewed information from CAPT Hootor to his chain of command	315	45
7-Apr-11	Thu	Received info regarding second Article 138 complaint	315	45
7-Apr-11	Thu	Reviewed forensic notes and witness notes	315	45
7-Apr-11	Thu	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	315	45
8-Apr-11	Fri	CCIU inoperable due to office relocation	316	45
8-Apr-11	Fri	Email from LTC Hemphill confirming that the 706 board intends to meet on 9 April 2011	316	45
8-Apr-11	Fri	Email with RCM 706 board members to coordinate continued support in case of a government furlough	316	45
8-Apr-11	Fri	Intake of Article 138 complaint	316	45
8-Apr-11	Fri	Media inquiry responses	316	45
8-Apr-11	Fri	Meeting-at Fort Meade Courtroom to walk through for construction requirements	316	45
8-Apr-11	Fri	OCONUS Leave	316	45
8-Apr-11	Fri	Phone call with CCIU	316	45
8-Apr-11	Fri	Phone call with DIA	316	45
8-Apr-11	Fri	Phone call with INSCOM DSJA about RCM 706 meeting date	316	45

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Date	Week Day	EVENT	Total Time	RCM 707 Clock
8-Apr-11	Fri	Phone call with OSIA	316	45
8-Apr-11	Fri	Phone call with OTJAG to discuss request for consent to disclose and classification reviews	316	45
8-Apr-11	Fri	Received documents clarifying entries on accused's LES	316	45
8-Apr-11	Fri	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	316	45
8-Apr-11	Fri	Worked on getting information for security clearances	316	45
9-Apr-11	Sat	Assisted RCM 706 board proceedings	317	45
9-Apr-11	Sat	Discovery production: Bates # 00011463 - 00011573 (111 pages), including Art 138 Response [Unclassified]	317	45
9-Apr-11	Sat	Meeting-RCM 706 interview of accused	317	45
9-Apr-11	Sat	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	317	45
10-Apr-11	Sun	Accused filed Article 138 complaint to Secretary of the Navy	318	45
10-Apr-11	Sun	Received EXSUMs for accused's movement	318	45
10-Apr-11	Sun	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	318	45
11-Apr-11	Mon	Confirmed travel arrangements for witness	319	45
11-Apr-11	Mon	Email with DA-requested meeting for update	319	45
11-Apr-11	Mon	Email with DIA-received contact information for NMEC support	319	45
11-Apr-11	Mon	Intake JRCF documents	319	45
11-Apr-11	Mon	Media inquiry responses	319	45
11-Apr-11	Mon	Meeting-with CCIU 1	319	45
11-Apr-11	Mon	Meeting-with CCIU 2	319	45
11-Apr-11	Mon	Phone call with CCIU reference PPP Logs	319	45
11-Apr-11	Mon	Phone call with USN Code 30	319	45
11-Apr-11	Mon	RCM 706 board coordination	319	45
11-Apr-11	Mon	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	319	45
11-Apr-11	Mon	Worked on discovery responses	319	45
12-Apr-11	Tue	Discovery production: Bates # 00011574 - 00012711 (1138 pages), including Security Classification Guide, OMPF, Enemy Information [Unclassified]	320	45
12-Apr-11	Tue	Email with DOS-request input for valuation evidence	320	45
12-Apr-11	Tue	Email with DSS-requested valuation evidence	320	45
12-Apr-11	Tue	Filed response to defense discovery request, dated 10 Jan 11	320	45
12-Apr-11	Tue	Filed response to defense discovery request, dated 16 Feb 11	320	45

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Date	Week Day	EVENT	Total Time	RCM 707 Clock
12-Apr-11	Tue	Media inquiry responses	320	45
12-Apr-11	Tue	Meeting-with DOJ to discuss discovery issues, preservation requests, and prudential search requests	320	45
12-Apr-11	Tue	RCM 706 board coordination	320	45
12-Apr-11	Tue	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	320	45
13-Apr-11	Wed	Communication with defense-defense requested coordination to meet with the accused on 28 Apr 11	321	45
13-Apr-11	Wed	Intake additional JRCF documents	321	45
13-Apr-11	Wed	Requested attestation certificate from provider of LES	321	45
13-Apr-11	Wed	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	321	45
14-Apr-11	Thu	Compiled Wget events	322	45
14-Apr-11	Thu	Coordinated movement to Fort Myer for 28 April	322	45
14-Apr-11	Thu	Email with DIA-requested update regarding IRTF documentation	322	45
14-Apr-11	Thu	Email with DIA-response to request for update on IRTF documentation	322	45
14-Apr-11	Thu	Email with OGA2-coordinate for a phone meeting	322	45
14-Apr-11	Thu	Made arrangements for counsel to attend the Classified Information Litigation course	322	45
14-Apr-11	Thu	Media inquiry responses	322	45
14-Apr-11	Thu	Meeting-with HQDA Information Assurance for meeting to discuss protection of prosecution, defense, Article 32 IO, and command	322	45
14-Apr-11	Thu	Phone call with OGA2	322	45
14-Apr-11	Thu	Phone call with SPCMCA	322	45
14-Apr-11	Thu	RCM 706 board coordination	322	45
14-Apr-11	Thu	Received signed protective order from Cassius Hall	322	45
14-Apr-11	Thu	Received signed protective order from LCDR Kennedy	322	45
14-Apr-11	Thu	Reviewed forensic notes and witness notes	322	45
14-Apr-11	Thu	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	322	45
14-Apr-11	Thu	Worked on scheduling counsel's indoctrination for security clearance	322	45
15-Apr-11	Fri	Completed requirements for iPerms accessRequest	323	45
15-Apr-11	Fri	Email from RCM 706 board which stated it will complete the final report this evening and no longer needs an additional week	323	45
15-Apr-11	Fri	Intake brig weekly reports	323	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
15-Apr-11	Fri	Media inquiry responses	323	45
15-Apr-11	Fri	Meeting-Team analysis and work product	323	45
15-Apr-11	Fri	Phone call with FBI	323	45
15-Apr-11	Fri	Phone call with J6, MDW in reference to discovery computers	323	45
15-Apr-11	Fri	Phone call with SPCMCA	323	45
15-Apr-11	Fri	Phone call with witness interviews	323	45
15-Apr-11	Fri	RCM 706 Board requested extension	323	45
15-Apr-11	Fri	SPCMCA approved RCM 706 Board's extension request	323	45
15-Apr-11	Fri	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	323	45
17-Apr-11	Sun	Email from CCIU about defense interviews	325	45
17-Apr-11	Sun	Email to TC about Article 138 complaint	325	45
18-Apr-11	Mon	Communication with defense-defense requested clarification why certain documents were provided in discovery and what the source of those documents were	326	45
18-Apr-11	Mon	Discovery production: Bates # 00012712 - 00012720 (9 pages), including Art 138 Response [Unclassified]	326	45
18-Apr-11	Mon	Email sent authenticity certificate to witness	326	45
18-Apr-11	Mon	Leave	326	45
18-Apr-11	Mon	Media inquiry responses	326	45
18-Apr-11	Mon	Meeting-with DC3 to discuss capabilities	326	45
18-Apr-11	Mon	Phone call with COL Malone to request he travel with the accused during movement to Fort Leavenworth, KS	326	45
18-Apr-11	Mon	Phone call with OSJA	326	45
18-Apr-11	Mon	Phone call with SPCMCA	326	45
18-Apr-11	Mon	RCM 706 board coordination	326	45
18-Apr-11	Mon	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	326	45
19-Apr-11	Tue	Communication with defense-with Mr. Coombs to notify him of the accused's movement to the JRCF and other issues	327	45
19-Apr-11	Tue	Email with FBI-coordinate for a meeting	327	45
19-Apr-11	Tue	Email with witness to fix DTS issues	327	45
19-Apr-11	Tue	Media inquiry responses	327	45
19-Apr-11	Tue	Meeting-with FBI to coordinate review of paper file	327	45
19-Apr-11	Tue	Meeting-with OTJAG in reference to handling, use, or discovery of classified information	327	45
19-Apr-11	Tue	Military Justice Division synchronization meeting	327	45
19-Apr-11	Tue	Obtained Westlaw access for prosecution member	327	45
19-Apr-11	Tue	Phone call with CCIU to discuss forensic reports and finalizing all reports for classification review	327	45
19-Apr-11	Tue	Phone call with COL Malone to request he travel with the accused during movement to Fort Leavenworth, KS	327	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
19-Apr-11	Tue	Phone call with FBI Legal to coordinate review of paper file	327	45
19-Apr-11	Tue	Phone call with OSJA	327	45
19-Apr-11	Tue	RCM 706 board coordination	327	45
19-Apr-11	Tue	Received iPerms access	327	45
19-Apr-11	Tue	Received memo dealing with placing inmate in segregation	327	45
19-Apr-11	Tue	Submitted request to review FBI files relevant to the accused	327	45
19-Apr-11	Tue	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	327	45
20-Apr-11	Wed	Began to retrieve all of accused's documents for Quantico	328	45
20-Apr-11	Wed	Communication with defense	328	45
20-Apr-11	Wed	Communication with defense-defense requested a replacement neuropsychologist	328	45
20-Apr-11	Wed	Communication with defense-defense requested the following: (1) phone contacts to speak with the accused; (2) mailing address to send attorney-client information to the accused; (3) JRCF rules and regulations; (4) visitation days/hours; (5) who will be responsible for transporting the accused to TDS and how the defense can make such a request; (6) whether arrangements will be made for defense and accused to have access to classified information at Leavenworth	328	45
20-Apr-11	Wed	Defense requested expert neuropsychologist for Fort Leavenworth	328	45
20-Apr-11	Wed	Drafted memorandum regarding the accused's confinement at Leavenworth	328	45
20-Apr-11	Wed	Email received authentication certificate from witness	328	45
20-Apr-11	Wed	Email with DIA-coordinate for a meeting	328	45
20-Apr-11	Wed	Email with FBI about prudential search request	328	45
20-Apr-11	Wed	Email with ODNI-requested update regarding status of OCA disclosure consent request and OCA classification review	328	45
20-Apr-11	Wed	Media inquiry response	328	45
20-Apr-11	Wed	Meeting-with National Media Exploitation Center (NMEC) to discuss what they do and how they could assist	328	45
20-Apr-11	Wed	Phone call with DOS to receive an update	328	45
20-Apr-11	Wed	Phone call with FBI	328	45
20-Apr-11	Wed	Phone call with Fort Leavenworth, KS OSJA	328	45
20-Apr-11	Wed	Phone call with OGA1	328	45
20-Apr-11	Wed	Phone call with OSJA	328	45
20-Apr-11	Wed	Phone call with OTJAG in reference to handling, use, or discovery of classified information	328	45
20-Apr-11	Wed	RCM 706 board coordination	328	45
20-Apr-11	Wed	Researched computer-related terminology relevant to this case	328	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
20-Apr-11	Wed	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	328	45
21-Apr-11	Thu	Draft SPCMCA accounting of excludable delay memorandum	329	45
21-Apr-11	Thu	Email with CENTCOM-requested notification of receipt of classified mail	329	45
21-Apr-11	Thu	Email with JAVs technicians discussed equipment issues	329	45
21-Apr-11	Thu	Email with ODNI for update on intelink log disclosure approval, and they have to rely on other agencies for approval	329	45
21-Apr-11	Thu	Email with ODNI-ODNI informed prosecution that classification review is proceeding and is complicated by number of entities involved	329	45
21-Apr-11	Thu	Leave	329	45
21-Apr-11	Thu	Media inquiry response	329	45
21-Apr-11	Thu	Phone call with OGA2	329	45
21-Apr-11	Thu	Phone call with OGC, Bureau of Prisons to discuss special administrative measures within the federal system	329	45
21-Apr-11	Thu	Phone call with OSJA	329	45
21-Apr-11	Thu	RCM 706 board coordination	329	45
21-Apr-11	Thu	Researched conducting Article 32 investigation without classification reviews	329	45
21-Apr-11	Thu	Searched for neuro-psychologist in the area near Leavenworth	329	45
21-Apr-11	Thu	To NCIX requesting copies of review letters	329	45
21-Apr-11	Thu	Verified custodian of accused's counseling records	329	45
21-Apr-11	Thu	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	329	45
21-Apr-11	Thu	Worked on requests for agencies to search, preserve, and disclose any material relating to this case	329	45
21-Apr-11	Thu	Worked on witness DTS	329	45
22-Apr-11	Fri	RCM 706 BOARD CONCLUDES	330	45
22-Apr-11	Fri	Email with CENTCOM-confirmed receipt of disks	330	45
22-Apr-11	Fri	Email with DA-discussion pertaining to continued administrative segregation	330	45
22-Apr-11	Fri	Email with JAVs to discuss audio/visual support for Article 32 technicians	330	45
22-Apr-11	Fri	Leave	330	45
22-Apr-11	Fri	Media inquiry response	330	45
22-Apr-11	Fri	Meeting with SPCMCA to discuss accounting of excludable delay memorandum	330	45
22-Apr-11	Fri	Meeting with Dr. Sweda to receive final report	330	45
22-Apr-11	Fri	Phone call with FBI	330	45
22-Apr-11	Fri	Phone call with OSJA	330	45

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Date	Week Day	EVENT	Total Time	RCM 707 Clock
22-Apr-11	Fri	Phone call with OTJAG in reference to handling, use, or discovery of classified information	330	45
22-Apr-11	Fri	RCM 706 board coordination	330	45
22-Apr-11	Fri	RCM 706 board submitted results in short form	330	45
22-Apr-11	Fri	Reviewed forensic notes and witness notes	330	45
22-Apr-11	Fri	SPCMCA Accounting of Excludable Delay Memorandum	330	45
22-Apr-11	Fri	With multiple agencies and department to receive updates for government delay request	330	45
22-Apr-11	Fri	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	330	45
23-Apr-11	Sat	Email with DA-discussed classified evidence	331	45
23-Apr-11	Sat	Leave	331	45
23-Apr-11	Sat	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	331	45
24-Apr-11	Sun	Leave	332	45
24-Apr-11	Sun	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	332	45
25-Apr-11	Mon	Draft government request to delay the Article 32	333	45
25-Apr-11	Mon	Email from Dr. Jehle, at Fort Leavenworth, stating that he will check to see if he can provide care for accused as a neurologist assigned to the defense team	333	45
25-Apr-11	Mon	Email with DA-discussed classified evidence	333	45
25-Apr-11	Mon	Email with FBI-received approval to coordinate to review FBI file	333	45
25-Apr-11	Mon	Email with FBI-received response to request to look at FBI file	333	45
25-Apr-11	Mon	Email with JAVs to discuss audio/visual support for Article 32 Technicians	333	45
25-Apr-11	Mon	Government Request to Delay Article 32	333	45
25-Apr-11	Mon	Media inquiry response	333	45
25-Apr-11	Mon	Meeting-with CCIU to coordinate for specific screenshots	333	45
25-Apr-11	Mon	Meeting-with OONI to pickup interagency documents	333	45
25-Apr-11	Mon	Meeting-with SPCMCA	333	45
25-Apr-11	Mon	Phone call with DOJ to discuss prudential search requests	333	45
25-Apr-11	Mon	Phone call with Dr. Jehle, at Fort Leavenworth, discussing expert request	333	45
25-Apr-11	Mon	Requested a delay of the Article 32	333	45
25-Apr-11	Mon	SPCMCA email to defense for input on request	333	45
25-Apr-11	Mon	SPCMCA requested monitoring and protective custody at JRCF	333	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
25-Apr-11	Mon	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	333	45
25-Apr-11	Mon	Worked on getting better access to CCIU	333	45
26-Apr-11	Tue	Defense Email Response to Government Request for Art 32 Delay	334	45
26-Apr-11	Tue	Email contacted potential witness regarding MFR for accused's EO complaint	334	45
26-Apr-11	Tue	Email with JAVs to discuss audio/visual support for Article 32 Technicians	334	45
26-Apr-11	Tue	Media inquiry response	334	45
26-Apr-11	Tue	Meeting-MAJ Fein attended Division Chiefs Meeting	334	45
26-Apr-11	Tue	Meeting-MAJ Fein led military justice division meeting	334	45
26-Apr-11	Tue	Phone call with company commander	334	45
26-Apr-11	Tue	Phone call with DIA	334	45
26-Apr-11	Tue	Phone call with FBI to discuss review of paper file	334	45
26-Apr-11	Tue	Reviewed forensic notes and witness notes	334	45
26-Apr-11	Tue	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	334	45
26-Apr-11	Tue	Worked on getting SIPR accounts	334	45
27-Apr-11	Wed	Email with planners for OPLAN BRAVO	335	45
27-Apr-11	Wed	Media inquiry response	335	45
27-Apr-11	Wed	Meeting-with J1, MDW to discuss MDW jurisdiction (not for case)	335	45
27-Apr-11	Wed	Meeting-with planners for OPLAN BRAVO	335	45
27-Apr-11	Wed	New member joined prosecution team	335	45
27-Apr-11	Wed	Phone call with CCIU	335	45
27-Apr-11	Wed	Phone call with FBI	335	45
27-Apr-11	Wed	Phone call with SPCMCA	335	45
27-Apr-11	Wed	Phone call with witness's corporation OGC about witness's testimony	335	45
27-Apr-11	Wed	Reviewed FBI case file	335	45
27-Apr-11	Wed	SPCMCA sent email clarifying monitoring and protective custody request to PMG	335	45
27-Apr-11	Wed	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	335	45
27-Apr-11	Wed	Worked on logistics	335	45
27-Apr-11	Wed	Worked on statement of work for logistics	335	45
28-Apr-11	Thu	Defense discovery request sent to MCB Quantico	336	45
28-Apr-11	Thu	Draft SPCMCA action memorandum for request of delay of Article 32 Investigation	336	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
28-Apr-11	Thu	Email with DOS-received request to discuss OCA declaration and valuation evidence	336	45
28-Apr-11	Thu	Email with OGA2-coordinate for a meeting	336	45
28-Apr-11	Thu	Finalized research on classification reviews for Article 32	336	45
28-Apr-11	Thu	Media inquiry response	336	45
28-Apr-11	Thu	OGA2 approved discovery disclosure	336	45
28-Apr-11	Thu	Phone call with OGA2	336	45
28-Apr-11	Thu	Phone call with OSJA	336	45
28-Apr-11	Thu	PMG email responding to SPCMCA request for monitoring and protective custody	336	45
28-Apr-11	Thu	Reviewed FBI case file	336	45
28-Apr-11	Thu	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	336	45
28-Apr-11	Thu	Worked on logistics for classified and unclassified discovery	336	45
28-Apr-11	Thu	Worked on statement of work for logistics	336	45
29-Apr-11	Fri	Confirmed receipt by FBI of unclassified case file	337	45
29-Apr-11	Fri	Confirmed receipt of material sent to CID	337	45
29-Apr-11	Fri	Email with DOS-discussed prudential search request draft	337	45
29-Apr-11	Fri	Media inquiry response	337	45
29-Apr-11	Fri	Meeting with SPCMCA to discuss government request for delay of Article 32 Investigation	337	45
29-Apr-11	Fri	OSJA Promotion	337	45
29-Apr-11	Fri	Phone call with CCIU	337	45
29-Apr-11	Fri	Phone call with DOJ	337	45
29-Apr-11	Fri	Phone call with DOS focused on updates on OCA declaration and other evidentiary issues	337	45
29-Apr-11	Fri	Phone call with OSJA	337	45
29-Apr-11	Fri	Phone call with SPCMCA	337	45
29-Apr-11	Fri	Reviewed FBI case file	337	45
29-Apr-11	Fri	SPCMCA Approved Delay of Article 32 Investigation	337	45
29-Apr-11	Fri	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	337	45
1-May-11	Sun	Email to Quantico Brig about preservation request	339	45
2-May-11	Mon	Communication with defense-requesting a neuropsychologist	340	45
2-May-11	Mon	Drafted project status graphs	340	45
2-May-11	Mon	Drafted research memorandum for agency's review	340	45
2-May-11	Mon	Email from Dr. Jehle stating he will work to confirm his availability as soon as possible	340	45
2-May-11	Mon	Email with CENTCOM-received request for disks for classification review	340	45
2-May-11	Mon	Email with DA-discussed classified evidence	340	45
2-May-11	Mon	Media inquiry response	340	45

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Date	Week Day	EVENT	Total Time	RCM 707 Clock
2-May-11	Mon	Neuropsychologist's chain of command approved	340	45
2-May-11	Mon	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	340	45
3-May-11	Tue	Drafted defense request approval memo for SPCMCA	341	45
3-May-11	Tue	Email from Dr. Jehle stating confirms availability to assist in the care of accused	341	45
3-May-11	Tue	Finalized research memorandum for agency's review	341	45
3-May-11	Tue	Media inquiry response	341	45
3-May-11	Tue	Phone call with CENTCOM who asked for new classification review discs because the original copies did not work in CENTCOM classified computers	341	45
3-May-11	Tue	Phone call with J6, MDW	341	45
3-May-11	Tue	Phone call with ODNI on approval for certain charged documents	341	45
3-May-11	Tue	Phone call with OGA1	341	45
3-May-11	Tue	Phone call with OTJAG in reference to handling, use, or discovery of classified information	341	45
3-May-11	Tue	Phone call with witness interview	341	45
3-May-11	Tue	Reviewed FBI case file	341	45
3-May-11	Tue	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	341	45
4-May-11	Wed	Attended Intelligence Community legal conference	342	45
4-May-11	Wed	Finalized memorandum discussing 18 USC 641 offense	342	45
4-May-11	Wed	Media inquiry response	342	45
4-May-11	Wed	Phone call with OSJA	342	45
4-May-11	Wed	Phone call with SPCMCA	342	45
4-May-11	Wed	Prepared evidence CDs for analysts	342	45
4-May-11	Wed	SPCMCA approved defense request for expert in neuropsychology	342	45
4-May-11	Wed	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	342	45
4-May-11	Wed	Worked on logistics	342	45
5-May-11	Thu	Attended Intelligence Community legal conference	343	45
5-May-11	Thu	Email with Fort Meade OSJA about courtroom update	343	45
5-May-11	Thu	Media inquiry response	343	45
5-May-11	Thu	Phone call with CCIU	343	45
5-May-11	Thu	Phone call with OSJA	343	45



Date	Week Day	EVENT	Total Time	RCM 707 Clock
5-May-11	Thu	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	343	45
5-May-11	Thu	Worked on fixing issues with courtroom equipment	343	45
6-May-11	Fri	Attempted to contact LTC Hilton	344	45
6-May-11	Fri	Email with DA-request meeting to discuss discovery	344	45
6-May-11	Fri	Email with DOD OGC, OTJAG, and DOJ to setup a meeting about DOD prudential search request	344	45
6-May-11	Fri	Media inquiry response	344	45
6-May-11	Fri	Phone call with FBI	344	45
6-May-11	Fri	Requested classification review and approval to disclose to the defense of classified material (OGA1)	344	45
6-May-11	Fri	Researched logistics for discovery	344	45
6-May-11	Fri	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	344	45
8-May-11	Sun	Email to OGA1 with SOUTHCOM documents	346	45
8-May-11	Sun	Ensured all brig recordings received worked correctly	346	45
8-May-11	Sun	Requested and received clarification on files received from CID	346	45
8-May-11	Sun	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	346	45
8-May-11	Sun	Worked on Article 10 timeline	346	45
9-May-11	Mon	Joined prosecution team	347	45
9-May-11	Mon	Media inquiry response	347	45
9-May-11	Mon	Phone call with DOJ in reference to DOD prudential search request	347	45
9-May-11	Mon	Phone call with TCAP	347	45
9-May-11	Mon	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	347	45
9-May-11	Mon	Worked on Article 10 timeline	347	45
10-May-11	Tue	Arrived at MDW	348	45
10-May-11	Tue	Completed security clearance prerequisites	348	45
10-May-11	Tue	Inprocessing	348	45
10-May-11	Tue	Inventory all purchased items	348	45
10-May-11	Tue	Media inquiry response	348	45
10-May-11	Tue	Meeting with DOD OGC, OTJAG, and DOJ in reference to DOD prudential search request	348	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
10-May-11	Tue	Phone call with EDVA to discuss how to obtain access for defense counsel to grand jury subpoena information and documents under seal	348	45
10-May-11	Tue	Phone call with OSJA	348	45
10-May-11	Tue	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	348	45
11-May-11	Wed	Assisted new member of prosecution team with inprocessing	349	45
11-May-11	Wed	Checked on the status of courier cards	349	45
11-May-11	Wed	Draft SPCMCA accounting of excludable delay memorandum	349	45
11-May-11	Wed	Email with DIA-discussed information flow to DA outside IRTF	349	45
11-May-11	Wed	Inprocessing	349	45
11-May-11	Wed	Media inquiry response	349	45
11-May-11	Wed	Meeting-at Fort Meade courtroom to discuss renovations	349	45
11-May-11	Wed	Requested personnel clearance and access	349	45
11-May-11	Wed	Team analysis and work product at Fort Meade, MD	349	45
11-May-11	Wed	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	349	45
11-May-11	Wed	Worked on getting security clearances processed for new members of prosecution team	349	45
12-May-11	Thu	Defense received US Forces-Iraq AR 15-6 investigative file	350	45
12-May-11	Thu	Discovery production: Bates # 00012721 - 00012924 (204 pages), including Art 138 Response [Unclassified]	350	45
12-May-11	Thu	Drafted statement of work for logistics	350	45
12-May-11	Thu	Email to MDW security to request courier card	350	45
12-May-11	Thu	Inprocessing	350	45
12-May-11	Thu	Media inquiry response	350	45
12-May-11	Thu	Meeting-with Fort Meade, OSJA 2	350	45
12-May-11	Thu	Meeting-with MDW security for security officer training	350	45
12-May-11	Thu	Meeting-with SPCMCA	350	45
12-May-11	Thu	Phone call with Fort Meade, OSJA 1	350	45
12-May-11	Thu	Phone call with ODNI	350	45
12-May-11	Thu	Prepared DA 3161 for purchased equipment	350	45
12-May-11	Thu	Researched logistical needs	350	45
12-May-11	Thu	SPCMCA Accounting of Excludable Delay Memorandum	350	45
12-May-11	Thu	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	350	45
13-May-11	Fri	Defense submitted discovery request	351	45
13-May-11	Fri	Leave	351	45
13-May-11	Fri	Media inquiry response	351	45
13-May-11	Fri	Researched discovery issues	351	45

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Date	Week Day	EVENT	Total Time	RCM 707 Clock
13-May-11	Fri	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	351	45
14-May-11	Sat	Leave	352	45
14-May-11	Sat	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	352	45
15-May-11	Sun	Joined prosecution team	353	45
15-May-11	Sun	Leave	353	45
15-May-11	Sun	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	353	45
16-May-11	Mon	Inprocessing	354	45
16-May-11	Mon	Media inquiry response	354	45
16-May-11	Mon	Meeting-Team analysis and work product	354	45
16-May-11	Mon	Meeting-with OTJAG and OGA2 to discuss classification review of unclassified CID information	354	45
16-May-11	Mon	Pulled documents showing accused's leave dates from Iraq	354	45
16-May-11	Mon	Researched discovery issues	354	45
16-May-11	Mon	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	354	45
17-May-11	Tue	Arranged for members of the prosecution to attend the National Advocacy Center Course	355	45
17-May-11	Tue	Communication with defense-with defense to discuss administrative issues	355	45
17-May-11	Tue	Drafted language to be used by EDVA to obtain federal disclosure and protective orders to authorize production to defense	355	45
17-May-11	Tue	Email with HQDA-sent draft affidavit for CYBERCOM	355	45
17-May-11	Tue	Inprocessing	355	45
17-May-11	Tue	Media inquiry response	355	45
17-May-11	Tue	Phone call with OTJAG in reference to handling, use, or discovery of classified information	355	45
17-May-11	Tue	Provided case update to new members of prosecution team	355	45
17-May-11	Tue	Researched discovery issues	355	45
17-May-11	Tue	Scheduled inprocessing appointments for new member of prosecution team	355	45
17-May-11	Tue	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	355	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
17-May-11	Tue	Worked on discovery review list from CID case file	355	45
18-May-11	Wed	Case familiarization for new member of prosecution team	356	45
18-May-11	Wed	Drafted DOJ memo listing discoverable documents	356	45
18-May-11	Wed	Dropped off potential evidence for review	356	45
18-May-11	Wed	Email with DSS-discussed DSS files	356	45
18-May-11	Wed	Media inquiry response	356	45
18-May-11	Wed	Meeting-at Andrews Air Force Base courtroom for visit	356	45
18-May-11	Wed	Phone call with ODNI to discuss intelink logs	356	45
18-May-11	Wed	Phone call with OGA1 to discuss OGA1 equities in unclassified CID information	356	45
18-May-11	Wed	Prepared documents to send to analysts	356	45
18-May-11	Wed	Research discovery issues	356	45
18-May-11	Wed	Reviewed FBI file	356	45
18-May-11	Wed	Scheduled read-on for new members of prosecution team	356	45
18-May-11	Wed	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	356	45
18-May-11	Wed	Worked on getting members of the prosecution into the legal citation and research seminar	356	45
19-May-11	Thu	Case familiarization for new member of prosecution team	357	45
19-May-11	Thu	Compiled Wget events	357	45
19-May-11	Thu	Coordination for discovery software 1	357	45
19-May-11	Thu	Coordination for discovery software 2	357	45
19-May-11	Thu	Email from OGA2 with OCA completed review of chat logs	357	45
19-May-11	Thu	Email from OGA2 with provided notice of sensitive document in discovery	357	45
19-May-11	Thu	Email with DISA-resent request for classification review	357	45
19-May-11	Thu	Email with J6, MDW	357	45
19-May-11	Thu	Email with OGA2-received classification review	357	45
19-May-11	Thu	Media inquiry response	357	45
19-May-11	Thu	Meeting-with FBI to discuss discovery timeline and requirements	357	45
19-May-11	Thu	Phone call with OSJA	357	45
19-May-11	Thu	Phone call with TCAP and GAD to coordinate meeting to discuss prudential search requests	357	45
19-May-11	Thu	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	357	45
19-May-11	Thu	Worked on obtaining list of case-specific records that may contain SCI material	357	45
20-May-11	Fri	FEDERAL JUDGES BEGIN ISSUING DISCLOSURE AND PROTECTIVE ORDERS GOVERNING MATERIAL RELATING TO THE COURT MARTIAL	358	45

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Date	Week Day	EVENT	Total Time	RCM 707 Clock
20-May-11	Fri	Arranged for inprocessing of new member of prosecution team	358	45
20-May-11	Fri	Email with INSCOM-requested classification review	358	45
20-May-11	Fri	Media inquiry response	358	45
20-May-11	Fri	Phone call with DIA	358	45
20-May-11	Fri	Research discovery issues	358	45
20-May-11	Fri	With multiple agencies and department to receive updates for government delay request	358	45
20-May-11	Fri	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	358	45
22-May-11	Sun	Article 32 delay request submitted	360	45
22-May-11	Sun	Case familiarization for new member of prosecution team	360	45
22-May-11	Sun	Draft government request to delay the Article 32	360	45
22-May-11	Sun	Email with OGA2-sent request to review unclass CID case file	360	45
22-May-11	Sun	Government Request to Delay Article 32	360	45
22-May-11	Sun	Phone call coordination with defense and LTC Almanza for encrypted emails	360	45
22-May-11	Sun	Requested OGA2 to review unclassified CID case file	360	45
22-May-11	Sun	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	360	45
23-May-11	Mon	Case familiarization for new member of prosecution team	361	45
23-May-11	Mon	Confirmed the availability of a witness	361	45
23-May-11	Mon	Drafted prudential search request	361	45
23-May-11	Mon	Emailed regarding fingerprinting for new member of prosecution team	361	45
23-May-11	Mon	Media inquiry response	361	45
23-May-11	Mon	Meeting-delivered unclassified information to OGA2 for classification review	361	45
23-May-11	Mon	Meeting-with TCAP and GAD discussing prudential search requests	361	45
23-May-11	Mon	Phone call coordination with defense and LTC Almanza for encrypted emails	361	45
23-May-11	Mon	Phone call with OSJA	361	45
23-May-11	Mon	Received accused's IA training documents from CID	361	45
23-May-11	Mon	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	361	45
24-May-11	Tue	Defense Email Response to Government Request for Art 32 Delay	362	45
24-May-11	Tue	Discussed obtaining full SecArmy 15-6 for discovery and methods of protecting the information	362	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
24-May-11	Tue	Drafted discovery memorandum	362	45
24-May-11	Tue	Drafted prudential search request	362	45
24-May-11	Tue	Email with DOD-sent response to DOJ's prudential search request to prosecution	362	45
24-May-11	Tue	Email with DSS-arranged meeting concerning DSS files	362	45
24-May-11	Tue	Email with HQDA-prosecution requested access to JS portal to understand what information was collected for previous prudential search request	362	45
24-May-11	Tue	Logistics set-up	362	45
24-May-11	Tue	Media inquiry response	362	45
24-May-11	Tue	Meeting-with DOS to determine full extent of DSS law enforcement file	362	45
24-May-11	Tue	Phone call coordination with defense and LTC Almanza for encrypted emails	362	45
24-May-11	Tue	Phone call with MDW security for JPAS access	362	45
24-May-11	Tue	Phone call with OSJA	362	45
24-May-11	Tue	Prepared delay memorandum	362	45
24-May-11	Tue	SPCMCA email to defense for input on request	362	45
24-May-11	Tue	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	362	45
25-May-11	Wed	PROSECUTION MEMORIALIZES ITS REQUESTS FOR OTHER GOVERNMENT ORGANIZATION TO SEARCH, PRESERVE, AND DISCLOSE ANY MATERIAL RELATING TO THE COURT MARTIAL	363	45
25-May-11	Wed	Communication with defense-defense requested the following: (1) forensic images of all media involved; (2) copy of all digital forensic reports; (3) copies of the CVs of government experts; (4) whether defense forensic experts must review digital media in government facility	363	45
25-May-11	Wed	Draft SPCMCA action memorandum for request of delay of Article 32 Investigation	363	45
25-May-11	Wed	Drafted email update on case for partners	363	45
25-May-11	Wed	DSS document review and discussion	363	45
25-May-11	Wed	Logistics set-up	363	45
25-May-11	Wed	Media inquiry response	363	45
25-May-11	Wed	Meeting-with DOS	363	45
25-May-11	Wed	Meeting-with DSS to discuss sensitive cable and review of DSS files for discovery	363	45
25-May-11	Wed	Phone call coordination with defense and LTC Almanza for encrypted emails	363	45
25-May-11	Wed	Phone call with CCIU	363	45
25-May-11	Wed	Phone call with OSJA	363	45
25-May-11	Wed	Prepared for request for agencies to search, preserve, and disclose any material relating to this case	363	45

APPELLATE EXHIBIT \_\_\_\_\_

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Date	Week Day	EVENT	Total Time	RCM 707 Clock
25-May-11	Wed	Requested assistance with DoD request to search, preserve, and disclose any material relating to this case and the release of Secretary of the Army AR 15-6	363	45
25-May-11	Wed	Requested that agency search, preserve, and disclose any records relating to this case (DIA)	363	45
25-May-11	Wed	Requested that agency search, preserve, and disclose any records relating to this case (DOD)	363	45
25-May-11	Wed	Requested that agency search, preserve, and disclose any records relating to this case (DOS)	363	45
25-May-11	Wed	Requested that agency search, preserve, and disclose any records relating to this case (NCIX)	363	45
25-May-11	Wed	Requested that agency search, preserve, and disclose any records relating to this case (ODNI)	363	45
25-May-11	Wed	Requested that agency search, preserve, and disclose any records relating to this case (OGA1)	363	45
25-May-11	Wed	Requested that agency search, preserve, and disclose any records relating to this case (OGA2)	363	45
25-May-11	Wed	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	363	45
26-May-11	Thu	Developed processes to intake and review discovery	364	45
26-May-11	Thu	Drafted request for security expert	364	45
26-May-11	Thu	Email to OGA1 with prudential search request	364	45
26-May-11	Thu	Email with DA-submitted security expert request	364	45
26-May-11	Thu	Email with HQDA-confirmed receipt of certain military intelligence investigation on CD	364	45
26-May-11	Thu	Email with HQDA-prosecution confirmed receipt of email about specific military intelligence investigation	364	45
26-May-11	Thu	Logistics set-up	364	45
26-May-11	Thu	MDW SJA forwarded prosecution request for security expert and request to disclose Secretary of the Army AR 15-6	364	45
26-May-11	Thu	Media inquiry response	364	45
26-May-11	Thu	Meeting with SPCMA to discuss government request for delay of Article 32 Investigation	364	45
26-May-11	Thu	Meeting-conducted new office space walk-through	364	45
26-May-11	Thu	Phone call coordination with defense and LTC Almanza for encrypted emails	364	45
26-May-11	Thu	Phone call with J6, MDW	364	45
26-May-11	Thu	Phone call with SPCMA	364	45
26-May-11	Thu	Requested security expert	364	45
26-May-11	Thu	Requested to disclose Secretary of the Army AR 15-6 to the defense	364	45
26-May-11	Thu	Researched discovery issues	364	45
26-May-11	Thu	Researched on specific discovery issue	364	45
26-May-11	Thu	SPCMA Approved Delay of Article 32 Investigation	364	45



Date	Week Day	EVENT	Total Time	RCM 707 Clock
26-May-11	Thu	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	364	45
27-May-11	Fri	Email from OGA2 with confirmed receipt of prudential search request and request to discuss	365	45
27-May-11	Fri	Email with DOS-prudential search request submitted	365	45
27-May-11	Fri	Email with ODNI-prudential search request submitted	365	45
27-May-11	Fri	Email with OGA2-sent prudential search request	365	45
27-May-11	Fri	Media inquiry response	365	45
27-May-11	Fri	Phone call coordination with defense and LTC Almanza for encrypted emails	365	45
27-May-11	Fri	Training Holiday - Memorial Day Holiday	365	45
27-May-11	Fri	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	365	45
28-May-11	Sat	Witness and evidence preparation	366	45
30-May-11	Mon	Email with DSS-discussed DSS files	368	45
30-May-11	Mon	Media inquiry response	368	45
30-May-11	Mon	Memorial Day Holiday	368	45
30-May-11	Mon	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	368	45
31-May-11	Tue	Document processing	369	45
31-May-11	Tue	Email with DA-received update regarding security expert request	369	45
31-May-11	Tue	Media inquiry response	369	45
31-May-11	Tue	Meeting-with OGC, OG1	369	45
31-May-11	Tue	Meeting-with OMC clerk's office to discuss discovery processes and programs	369	45
31-May-11	Tue	Phone call with DOJ	369	45
31-May-11	Tue	Received discovery AIRs from CID Case File	369	45
31-May-11	Tue	Researched on specific discovery issue	369	45
31-May-11	Tue	Researched topic	369	45
31-May-11	Tue	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	369	45
1-Jun-11	Wed	CPT Overgaard and CPT Whyte attend Classified Information Course	370	45
1-Jun-11	Wed	Documentary Evidence Processing (Adobe Pro)	370	45
1-Jun-11	Wed	Email with CCIU to receive update on DOD IG subponea returns	370	45
1-Jun-11	Wed	Media inquiry response	370	45

APPENDIX A

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Date	Week Day	EVENT	Total Time	RCM 707 Clock
1-Jun-11	Wed	Meeting-at Quantico to obtain documents pertaining to accused	370	45
1-Jun-11	Wed	Meeting-with ODNI	370	45
1-Jun-11	Wed	Meeting-with OGA1	370	45
1-Jun-11	Wed	Phone call with OGA1	370	45
1-Jun-11	Wed	Phone call with OSJA	370	45
1-Jun-11	Wed	Phone call with witness interview	370	45
1-Jun-11	Wed	Received declaration of records from company commander	370	45
1-Jun-11	Wed	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	370	45
2-Jun-11	Thu	CPT Overgaard and CPT Whyte attend Classified Information Course	371	45
2-Jun-11	Thu	DADT Training	371	45
2-Jun-11	Thu	Developed list of issues that needed to be addressed with each dept/agency - what we owed them and what they owed us	371	45
2-Jun-11	Thu	Developed system to track Protected Documents and Approvals	371	45
2-Jun-11	Thu	Documentary Evidence Processing (Adobe Pro)	371	45
2-Jun-11	Thu	Drafted prudential search request	371	45
2-Jun-11	Thu	Email requested DTS information for witness travel	371	45
2-Jun-11	Thu	Email with DIA-clarified prudential search request	371	45
2-Jun-11	Thu	Email with ODNI-ODNI offered to brief on status of damage assessment in response to prosecution request	371	45
2-Jun-11	Thu	Email with OGA2 to inform them we received authority to disclose grand jury information, preparing to draft new protective order for their review	371	45
2-Jun-11	Thu	Media inquiry response	371	45
2-Jun-11	Thu	ONCIX notifies prosecution that its damage assessment team would like to brief the prosecution	371	45
2-Jun-11	Thu	Phone call with OSJA	371	45
2-Jun-11	Thu	Picked up Quantico MCB Discovery docs	371	45
2-Jun-11	Thu	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	371	45
3-Jun-11	Fri	CPT Overgaard and CPT Whyte attend Classified Information Course	372	45
3-Jun-11	Fri	Developed system to track Protected Documents and Approvals	372	45
3-Jun-11	Fri	Documentary Evidence Processing (Adobe Pro)	372	45
3-Jun-11	Fri	Email with CAPT Neill to retrieve encrypted emails	372	45
3-Jun-11	Fri	Email with DOS-requested update regarding OCA declaration	372	45
3-Jun-11	Fri	Email with ODNI-clarified prudential search request	372	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
3-Jun-11	Fri	Media inquiry response	372	45
3-Jun-11	Fri	Meeting with CCIU and witness	372	45
3-Jun-11	Fri	Meeting with DOS to discuss prudential search request	372	45
3-Jun-11	Fri	Meeting with USN prosecution of PO1 Martin (national security case)	372	45
3-Jun-11	Fri	Phone call with OSJA	372	45
3-Jun-11	Fri	Phone call with USN Code 30	372	45
3-Jun-11	Fri	Revised disclosure and protective orders	372	45
3-Jun-11	Fri	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	372	45
4-Jun-11	Sat	Developed system to track Protected Documents and Approvals	373	45
4-Jun-11	Sat	Drafted email discussing issues and discovery to defense	373	45
4-Jun-11	Sat	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	373	45
5-Jun-11	Sun	Developed system to track Protected Documents and Approvals	374	45
5-Jun-11	Sun	Intake of CID documents received	374	45
5-Jun-11	Sun	Meeting outside support structure planning and site recognizance at Fort Meade	374	45
5-Jun-11	Sun	Prepared 2nd Article 138 complaint for discovery	374	45
5-Jun-11	Sun	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	374	45
6-Jun-11	Mon	Developed system to track Protected Documents and Approvals	375	45
6-Jun-11	Mon	Documentary Evidence Processing (Adobe Pro)	375	45
6-Jun-11	Mon	Email with DA-discussed classification review	375	45
6-Jun-11	Mon	Email with DISA-received classification review	375	45
6-Jun-11	Mon	Email with HQDA-prosecution requested an update from DA on its request to search, preserve, and disclose any material relating to this case	375	45
6-Jun-11	Mon	Email with OGA1-sought clarification regarding prosecution's prudential search request	375	45
6-Jun-11	Mon	Internal bates numbered accused's Article 138 Complaint	375	45
6-Jun-11	Mon	Media inquiry response	375	45
6-Jun-11	Mon	Member leaves the Team	375	45
6-Jun-11	Mon	Phone call with Civilian Defense Counsel to pretrial confinee at JRCF	375	45
6-Jun-11	Mon	Phone call with Fort Meade OSJA	375	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
6-Jun-11	Mon	Prosecution requests Classification Review (DISA)ManningB_00376874	375	45
6-Jun-11	Mon	Research/memo on specific discovery issue	375	45
6-Jun-11	Mon	Submit prudential search request to DOD	375	45
6-Jun-11	Mon	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	375	45
7-Jun-11	Tue	Developed system to track Protected Documents and Approvals	376	45
7-Jun-11	Tue	Documentary Evidence Processing (Adobe Pro)	376	45
7-Jun-11	Tue	Email to OGA2 with request update on OGA2 review of CID documents	376	45
7-Jun-11	Tue	Email with DA-requested OCA update	376	45
7-Jun-11	Tue	Media inquiry response	376	45
7-Jun-11	Tue	Meeting-with EDVA and DOJ to review all search warrants, 2703(d) orders, and grand jury returns	376	45
7-Jun-11	Tue	Meeting-with OTJAG in reference to handling, use, or discovery of classified information	376	45
7-Jun-11	Tue	Meeting-with planners for OPLAN BRAVO	376	45
7-Jun-11	Tue	Phone call with J6, MDW	376	45
7-Jun-11	Tue	Phone call with JAVs	376	45
7-Jun-11	Tue	PTA and Brady research/memo	376	45
7-Jun-11	Tue	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	376	45
8-Jun-11	Wed	Analyzing Intelink Logs	377	45
8-Jun-11	Wed	Compiled Unclass CCIU Case log	377	45
8-Jun-11	Wed	Developed system to track Protected Documents and Approvals	377	45
8-Jun-11	Wed	Documentary Evidence Processing (Adobe Pro)	377	45
8-Jun-11	Wed	Drafted Protective Orders	377	45
8-Jun-11	Wed	Email with DOS-received request for draft of OCA declaration	377	45
8-Jun-11	Wed	Email with HQDA-DA notified prosecution that it forwarded request to DOD Office of General Counsel	377	45
8-Jun-11	Wed	MDW OPLAN Bravo drafted for transport and well being of the accused, and orderly execution of Article 32 proceedings	377	45
8-Jun-11	Wed	Media inquiry response	377	45
8-Jun-11	Wed	Meeting-with DOJ	377	45
8-Jun-11	Wed	Meeting-with HQDA classification expert to review all unclassified CID files	377	45
8-Jun-11	Wed	Meeting-with OGA1, OGA2, DOJ, ODNI, OTJAG, and DOD about sensitive subject	377	45
8-Jun-11	Wed	Meeting-with OTJAG in reference to handling, use, or discovery of classified information	377	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
8-Jun-11	Wed	Phone call with J6, MDW	377	45
8-Jun-11	Wed	PTA and Brady research/memo	377	45
8-Jun-11	Wed	Sentencing Research	377	45
8-Jun-11	Wed	SGT Waybright GPC Training	377	45
8-Jun-11	Wed	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	377	45
9-Jun-11	Thu	Analyzing Intelink Logs	378	45
9-Jun-11	Thu	Developed system to track Protected Documents and Approvals	378	45
9-Jun-11	Thu	Discovery production: Bates # 00012925 - 00012933 (9 pages), including Art 138 Response [Unclassified]	378	45
9-Jun-11	Thu	Documentary Evidence Processing (Adobe Pro)	378	45
9-Jun-11	Thu	GCMCA Panel Adoption	378	45
9-Jun-11	Thu	GPC Training	378	45
9-Jun-11	Thu	Media inquiry response	378	45
9-Jun-11	Thu	Meeting-with CCIU to receive copy of forensic evidence, loose harddrives, specialized programs, and forensic report	378	45
9-Jun-11	Thu	Meeting-with planners for OPLAN BRAVO	378	45
9-Jun-11	Thu	Phone call with OSJA	378	45
9-Jun-11	Thu	PTA and Brady research/memo	378	45
9-Jun-11	Thu	Sentencing Research	378	45
9-Jun-11	Thu	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	378	45
10-Jun-11	Fri	Analyzing Intelink Logs	379	45
10-Jun-11	Fri	Communication with defense-defense requested for discovery to be delivered to Mr. Coombs and to MAJ Kemkes, and for a defense safe to be located in the Fort Myer and Fort Leavenworth TDS offices	379	45
10-Jun-11	Fri	Documentary Evidence Processing (Adobe Pro)	379	45
10-Jun-11	Fri	GPC Training	379	45
10-Jun-11	Fri	Media inquiry response	379	45
10-Jun-11	Fri	Meeting-with DOJ	379	45
10-Jun-11	Fri	Meeting-with Open Source Center to discuss approvals	379	45
10-Jun-11	Fri	OSJA Roundtable Discussion (MAJ Fein was a participant)	379	45
10-Jun-11	Fri	Phone call with OSJA	379	45
10-Jun-11	Fri	Received log book sheets from brig	379	45
10-Jun-11	Fri	Sentencing Research	379	45
10-Jun-11	Fri	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	379	45
12-Jun-11	Sun	TDY Charlottesville, VA (LAC)	381	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
12-Jun-11	Sun	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	381	45
13-Jun-11	Mon	Analyzing Intelink Logs	382	45
13-Jun-11	Mon	Email coordinated service of Article 138 at Fort Leavenworth	382	45
13-Jun-11	Mon	Email with HQDA-review of CCIU file and advises prosecution to refer specific files to agencies for review	382	45
13-Jun-11	Mon	Media inquiry response	382	45
13-Jun-11	Mon	Meeting-with NCIX to receive update brief	382	45
13-Jun-11	Mon	OSJA MDW Awards Ceremony	382	45
13-Jun-11	Mon	Phone call with J4, MDW	382	45
13-Jun-11	Mon	Phone call with OSJA	382	45
13-Jun-11	Mon	TDY Charlottesville, VA (LAC)	382	45
13-Jun-11	Mon	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	382	45
14-Jun-11	Tue	Analyzing Intelink Logs	383	45
14-Jun-11	Tue	Draft SPCMA accounting of excludable delay memorandum	383	45
14-Jun-11	Tue	Email from OGA1 with concurred with request for defense access to charging documents	383	45
14-Jun-11	Tue	Email to OGA1 with request for authority to disclose additional charged document	383	45
14-Jun-11	Tue	Email with OGA2-sent updated prudential search request	383	45
14-Jun-11	Tue	Leave	383	45
14-Jun-11	Tue	Media inquiry response	383	45
14-Jun-11	Tue	Meeting-with planners for OPLAN BRAVO for budgeting	383	45
14-Jun-11	Tue	Meeting-with planners for OPLAN BRAVO for OPSEC	383	45
14-Jun-11	Tue	Phone call with DOS to receive update on classification review and prudential search request	383	45
14-Jun-11	Tue	Phone call with J4, MDW	383	45
14-Jun-11	Tue	Phone call with OSJA	383	45
14-Jun-11	Tue	Received and bates stamped SFC Adkins Board Results	383	45
14-Jun-11	Tue	Submit prudential search request to DIA	383	45
14-Jun-11	Tue	Submit prudential search request to DOS	383	45
14-Jun-11	Tue	Submit prudential search request to ODNI	383	45
14-Jun-11	Tue	Submit prudential search request to OGA1	383	45
14-Jun-11	Tue	Submit prudential search request to OGA2	383	45
14-Jun-11	Tue	Submitted OGA1 Consents to Disclose Specific Charged Document(s)	383	45
14-Jun-11	Tue	TDY Charlottesville, VA (LAC)	383	45
14-Jun-11	Tue	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	383	45

Date	Week Day	EVENT	Total Time	RCM 707 Clock
15-Jun-11	Wed	Leave	384	45
15-Jun-11	Wed	Media inquiry response	384	45
15-Jun-11	Wed	Phone call with DIA	384	45
15-Jun-11	Wed	Phone call with DOJ	384	45
15-Jun-11	Wed	Phone call with OGA2 to receive final input on draft protective order for unclassified but protected information	384	45
15-Jun-11	Wed	Phone call with OSJA	384	45
15-Jun-11	Wed	TDY Charlottesville, VA (LAC)	384	45
15-Jun-11	Wed	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	384	45
16-Jun-11	Thu	Email from OGA2 with completed review of CID case file documents	385	45
16-Jun-11	Thu	Email to OGA1 with updated prudential search request	385	45
16-Jun-11	Thu	Email to OGA2 with committed to looking for OGA2 info in certain charged documents	385	45
16-Jun-11	Thu	Leave	385	45
16-Jun-11	Thu	Media inquiry response	385	45
16-Jun-11	Thu	Meeting with planners for OPLAN BRAVO	385	45
16-Jun-11	Thu	Phone call with OSJA	385	45
16-Jun-11	Thu	Reviewed CID Subpoena tracker for updates	385	45
16-Jun-11	Thu	Submitted Request for Access (OGA1)	385	45
16-Jun-11	Thu	TDY Charlottesville, VA (LAC)	385	45
16-Jun-11	Thu	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	385	45
17-Jun-11	Fri	Email with DA-discussed discovery	386	45
17-Jun-11	Fri	Leave	386	45
17-Jun-11	Fri	Media inquiry response	386	45
17-Jun-11	Fri	Meeting with SPCMA to discuss accounting of excludable delay memorandum	386	45
17-Jun-11	Fri	Phone call with company commander	386	45
17-Jun-11	Fri	Phone call with DOS - discussed scope of prudential search request and preservation aspect of letter	386	45
17-Jun-11	Fri	Phone call with OSJA	386	45
17-Jun-11	Fri	Phone call with OTJAG in reference to handling, use, or discovery of classified information	386	45
17-Jun-11	Fri	Received additional discovery documents from CID	386	45
17-Jun-11	Fri	SPCMA Accounting of Excludable Delay Memorandum	386	45
17-Jun-11	Fri	TDY Charlottesville, VA (LAC)	386	45
17-Jun-11	Fri	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	386	45

APPELLATE EXHIBIT \_\_\_\_\_

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Date	Week Day	EVENT	Total Time	RCM 707 Clock
17-Jun-11	Fri	Worked on protective order for unclassified, law enforcement sensitive information	386	45
18-Jun-11	Sat	Leave	387	45
18-Jun-11	Sat	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	387	45
19-Jun-11	Sun	Developed defense request tracking system	388	45
19-Jun-11	Sun	Developed discovery tracking system	388	45
19-Jun-11	Sun	Email with DISA-reached out to DISA to discuss prudential search request	388	45
19-Jun-11	Sun	Email with OGA2-sent draft protective order for unclass LES information	388	45
19-Jun-11	Sun	Leave	388	45
19-Jun-11	Sun	Meeting-with OSJA	388	45
19-Jun-11	Sun	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	388	45
20-Jun-11	Mon	Developed defense request tracking system	389	45
20-Jun-11	Mon	Developed discovery tracking system	389	45
20-Jun-11	Mon	Email from OGA1 with confirmed receipt of prudential search request	389	45
20-Jun-11	Mon	Email with DISA-sent DOJ information to assist in discovery	389	45
20-Jun-11	Mon	Email with DISA-sent draft prudential search request	389	45
20-Jun-11	Mon	Email with FBI-coordinate for a phone meeting	389	45
20-Jun-11	Mon	Email with OGA1 to prudential search request	389	45
20-Jun-11	Mon	Email with OGA1-provided additional guidance on prudential search request	389	45
20-Jun-11	Mon	Email with OGA2 to review final draft of protective order to push out discovery 2	389	45
20-Jun-11	Mon	Leave	389	45
20-Jun-11	Mon	Media inquiry response	389	45
20-Jun-11	Mon	Meeting-with OSJA	389	45
20-Jun-11	Mon	Phone call with OGA1 to discuss use request	389	45
20-Jun-11	Mon	Phone call with OGA1 to receive update on one set of charged documents and its review of the unclassified case file	389	45
20-Jun-11	Mon	Phone call with OGA2 to review final draft of protective order to push out discovery 1	389	45
20-Jun-11	Mon	Request DoD Personnel Clearance and Access	389	45
20-Jun-11	Mon	Worked generally to produce discoverable information, develop evidence and witnesses, identify other potentially discoverable material and associated equity holders, and prepare for Article 32 investigation	389	45
21-Jun-11	Tue	Communication-Coordinate with defense for encrypted communication	390	45



## INSTRUCTIONS FOR PREPARING AND ARRANGING RECORD OF TRIAL

**USE OF FORM** - Use this form and MCM, 1984, Appendix 14, will be used by the trial counsel and the reporter as a guide to the preparation of the record of trial in general and special court-martial cases in which a verbatim record is prepared. Air Force uses this form and departmental instructions as a guide to the preparation of the record of trial in general and special court-martial cases in which a summarized record is authorized.

Army and Navy use DD Form 491 for records of trial in general and special court-martial cases in which a summarized record is authorized. Inapplicable words of the printed text will be deleted.

**COPIES** - See MCM, 1984, RCM 1103(g). The convening authority may direct the preparation of additional copies.

**ARRANGEMENT** - When forwarded to the appropriate Judge Advocate General or for judge advocate review pursuant to Article 64(a), the record will be arranged and bound with allied papers in the sequence indicated below. Trial counsel is responsible for arranging the record as indicated, except that items 6, 7, and 15e will be inserted by the convening or reviewing authority, as appropriate, and items 10 and 14 will be inserted by either trial counsel or the convening or reviewing authority, whichever has custody of them.

1. Front cover and inside front cover (chronology sheet) of DD Form 490.
2. Judge advocate's review pursuant to Article 64(a), if any.
3. Request of accused for appellate defense counsel, or waiver/withdrawal of appellate rights, if applicable.
4. Briefs of counsel submitted after trial, if any (Article 38(c)).
5. DD Form 494, "Court-Martial Data Sheet."
6. Court-martial orders promulgating the result of trial as to each accused, in 10 copies when the record is verbatim and in 4 copies when it is summarized.
7. When required, signed recommendation of staff judge advocate or legal officer, in duplicate, together with all clemency papers, including clemency recommendations by court members.

8. Matters submitted by the accused pursuant to Article 60 (MCM, 1984, RCM 1105).

9. DD Form 458, "Charge Sheet" (unless included at the point of arraignment in the record).

10. Congressional inquiries and replies, if any.

11. DD Form 457, "Investigating Officer's Report," pursuant to Article 32, if such investigation was conducted, followed by any other papers which accompanied the charges when referred for trial, unless included in the record of trial proper.

12. Advice of staff judge advocate or legal officer, when prepared pursuant to Article 34 or otherwise.

13. Requests by counsel and action of the convening authority taken thereon (e.g., requests concerning delay, witnesses and depositions).

14. Records of former trials.

15. Record of trial in the following order:

- a. Errata sheet, if any.
- b. Index sheet with reverse side containing receipt of accused or defense counsel for copy of record or certificate in lieu of receipt.
- c. Record of proceedings in court, including Article 39(a) sessions, if any.
- d. Authentication sheet, followed by certificate of correction, if any.
- e. Action of convening authority and, if appropriate, action of officer exercising general court-martial jurisdiction.
- f. Exhibits admitted in evidence.
- g. Exhibits not received in evidence. The page of the record of trial where each exhibit was offered and rejected will be noted on the front of each exhibit.
- h. Appellate exhibits, such as proposed instructions, written offers of proof or preliminary evidence (real or documentary), and briefs of counsel submitted at trial.